

THE MINISTRIES

THE MINISTRY OF INDUSTRY AND TRADE

Circular No. 28/2010/TT-BCT of June 28, 2010, specifying a number of articles of the Law on Chemicals and the Government's Decree No. 108/2008/ND-CP of October 7, 2008, detailing and guiding a number of articles of the Law on Chemicals

**THE MINISTER OF INDUSTRY AND
TRADE**

Pursuant to the Government's Decree No. 189/2007/ND-CP of December 27, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade;

Pursuant to the November 21, 2007 Law on Chemicals;

Pursuant to the Government's Decree No. 108/2008/ND-CP of October 7, 2008, detailing and guiding a number of articles of the Law on Chemicals;

The Ministry of Industry and Trade specifies a number of articles of the Law on Chemicals and the Government's Decree No. 108/2008/ND-CP of October 7, 2008, detailing and guiding a number of articles of the Law on Chemicals, as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Circular provides for:

a/ Conditions on physical-technical

foundations to assure safety in the production and trading of industrial chemicals;

b/ Dossiers and procedures for the grant of certificates of eligibility for production and trading of industrial chemicals subject to conditional production and trading;

c/ Dossiers and procedures for the grant of licenses for production and trading of industrial chemicals restricted from production and trading;

d/ Compilation and appraisal of dossiers of request for permission for production, import or use of banned industrial chemicals;

e/ Measures to prevent and respond to industrial chemical-related incidents and formulation of plans to prevent and respond to these incidents;

f/ Control cards of trading in toxic chemicals; making of chemical safety cards; registration dossiers and assessment of new chemicals; and confidentiality of chemical information.

2. Certificates of eligibility for production and trading of industrial chemicals subject to conditional production and trading or licenses for production and trading of industrial chemicals restricted from production and trading specified in this Circular will not be granted for explosive pre-substances, petrol, oil and liquefied petroleum gas.

Article 2. Subjects of application

This Circular applies to producers, traders and users of industrial chemicals and organizations and individuals involved in chemical activities in the territory of the Socialist Republic of Vietnam.

Article 3. Interpretation and terms and acronyms

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

1. List of industrial chemicals subject to

conditional production and trading means the list of chemicals in Appendix I to this Circular.

2. List of industrial chemicals restricted from production and trading means the list of chemicals in Appendix II to the Government's Decree No. 108/2008/ND-CP of October 7, 2008, detailing and guiding a number of articles of the Law on Chemicals.

3. List of banned chemicals means the list of chemicals in Appendix III to Decree No. 108/2008/ND-CP.

4. Chemical trading means the performance of one, several or all of stages of the investment process, from production to sale or provision of chemicals services on the market for earning profits.

5. Valid copy means a copy notarized or certified by a competent agency or organization.

6. Chemical Abstracts Service (CAS) code of a chemical means the sole sequence of numerals assigned for each chemical under the rules of the CAS of the US Chemistry Association).

7. United Nations (UN) number means a number consisting of 4 numerals specified by the United Nations and used for the identification of hazardous chemicals.

Chapter II

CONDITIONS ON PHYSICAL- TECHNICAL FOUNDATIONS TO ASSURE SAFETY IN THE PRODUCTION AND TRADING OF INDUSTRIAL CHEMICALS

Article 4. Safety assurance in chemical production and trading

Industrial chemical producers and traders must satisfy the conditions on workshops, warehouses, equipment, vehicles and safe operation under the Law on Chemicals; Articles 5, 6 and 7 of this Circular; Vietnam standard

TCVN 5507:2002 Hazardous chemicals - Safety rules in production, trading, use, preservation and transportation; and current relevant laws, standards and technical regulations.

Article 5. Conditions on workshops and warehouses

1. Locations

a/ Workshops and warehouses must be located in places suitable to planning conditions;

b/ Locations of chemical production workshops must be convenient for electricity and water supply, water drainage, pollution treatment and transport;

c/ Chemical workshops and warehouses may not be located close to residential areas. For chemical warehouses located within workshops to serve production, their locations must satisfy chemical preservation technology requirements. Chemical warehouses must be placed outside production workshops;

d/ Warehouses must ensure easy access for vehicles and fire engines.

2. Arrangement of workshop and warehouse ground areas

The ground planning for workshops and warehouses must ensure designing standards based on current Vietnamese construction regulations and standards regarding climate, hydrogeology, hydrometeorology, earthquake zoning, fire and explosion prevention and fighting, environmental protection and labor safety:

a/ On workshop ground areas, rational work items with clear functions must be arranged;

b/ Workshop area must satisfy current requirements on arrangement of production equipment;

c/ Production workshop designs must ensure that the indoor working environment reaches the Health Ministry's standards on temperature,

humidity and wind speed;

d/ In-workshop passages must be arranged rationally for safe transportation within workshops and for fire fighting. Workshops must have walls separating them from the outside;

e/ The designing of chemical warehouses must observe safety rules, reducing to the utmost fire or spill risks and ensuring separation of substances that may cause chemical reactions;

f/ Warehouses shall be designed depending on types of chemicals to be preserved and classified by explosion, fire-explosion and fire risks as specified in Vietnam standard TCVN 2622:1995. Such designing must comply with Vietnamese construction regulations and relevant standards. In addition to general provisions on work structure, chemical warehouses shall be designed according to fire and explosion prevention and fighting standards regarding fire resistance, fire separation, emergency exit, fire alarm and fighting systems, and fire prevention watch.

3. Structure and arrangement of works

a/ Closed and wide areas must have two-direction emergency exits, which are clearly instructed (in signboards or plans, etc.) and designed to ensure convenient use in emergency cases. Exit doors must be easy to open in the dark or thick smoke;

b/ Warehouses must have open ventilation systems on their roofs, on walls below the roofs or near the floors;

c/ Warehouse floors must be impermeable, even, non-slip and have no cracks for storing leaked water, spilt liquids or contaminated firefighting water or forming surrounding edges;

d/ Warehouse construction and heat-proof materials must be refractory and warehouse frames must be firmly reinforced with concrete or steel.

Article 6. Conditions on equipment

1. Production equipment

a/ Production equipment must satisfy general safety requirements according to current Vietnam standards;

b/ Production equipment must be regularly maintained and cleaned;

c/ Their technical parameters must be inspected and there must be safety systems for their users.

2. Safety equipment and facilities

a/ Lighting facilities and other electric equipment must be installed at necessary places. Temporary installation is disallowed. All electric equipment and facilities must be earthed and have a circuit breaker to operate upon electricity leakage and prevent overload;

b/ Refractory materials must be used for solvent storage places with low ignition temperature or fine chemical dust;

c/ Sufficient equipment and instruments must be furnished at chemical production and trading establishments to respond to incidents. Fire warning and fighting systems must be installed at appropriate places and regularly inspected to ensure their readiness for use.

3. Emission and waste treatment systems

a/ Chemical workshops and warehouses must not emit into the air hazardous substances, cause noise or other harmful elements in excess of the current prescribed levels regarding environmental sanitation. Chemical workshops' and warehouses' emissions must satisfy QCVN 19:2009/BTNMT - National technical regulation on industrial emissions for dust and inorganic substances; QCVN 20:2009/BTNMT - National technical regulation on industrial emissions for some organic substances; and QCVN 21:2009/BTNMT - National technical regulation on industrial emissions from production of chemical fertilizers;

b/ Chemical workshops and warehouses must

have wastewater treatment systems. Treated wastewater must satisfy QCVN 07:2009/ BTNMT - National technical regulation on hazardous waste limits; QCVN 24:2009/ BTNMT - National technical regulation on industrial wastewater; and QCVN 25:2009/ BTNMT - National technical regulation on wastewater of solid waste landfills;

c/ Chemical workshops' and warehouses' solid wastes must comply with the Government's Decree No. 59/2007/ND-CP of April 9, 2007, on management of solid wastes. Chemical workshops and warehouses must have tools for collecting and transporting solid wastes out of production zones after each production shift. Waste storage places must be closed and isolated from production zones.

Article 7. Conditions on vehicles and safe operation

1. Chemical vehicles must satisfy current technical standards on hazardous goods to be transported and the following requirements:

a/ Vehicles are designed to prevent leakage or dispersion of chemicals into the environment. During transportation, chemicals which can cause reactions may not be stored together to avoid danger;

b/ Chemicals must be stored in appropriate packings and transported by special-use vehicles;

c/ Vehicles must bear warning and caution signs. When a vehicle transports different chemicals, the symbols of all chemicals must be stuck on both sides and the rear of the vehicle.

2. Safe operation at chemical warehouses

a/ Chemical production establishments and chemical warehouses must have measures or plans to prevent and respond to chemical incidents;

b/ Chemical production establishments must have internal rules on chemical safety and caution

systems suitable to the level of danger of chemicals. For a chemical containing different hazardous properties, the caution sign must sufficiently express such properties;

c/ Operation at chemical warehouses must comply with strict safety and sanitation requirements to avoid such possible risks as fire or leakage;

d/ Warehouse keepers must apply instructions on chemical safety cards of all chemicals stored and transported; instructions on safety and sanitation; and instructions upon occurrence of incidents;

e/ In a warehouse, hazardous substances must be placed separately from areas where people regularly enter and exit; there must be spaces between walls and chemical bales nearest to the walls, and internal passages which are airy and accessible to inspection and fire fighting equipment.

Chapter III

DOSSIERS AND PROCEDURES FOR GRANT OF CERTIFICATES OF OR LICENSES FOR INDUSTRIAL CHEMICAL PRODUCTION AND TRADING

Section 1. DOSSIERS AND PROCEDURES FOR GRANT OF CERTIFICATES OF ELIGIBILITY FOR PRODUCTION AND TRADING OF INDUSTRIAL CHEMICALS SUBJECT TO CONDITIONAL PRODUCTION AND TRADING

Article 8. Organizations granting certificates of eligibility for chemical production and trading

Industry and Trade Departments of provinces or centrally run cities (below referred to as Industry and Trade Departments) shall grant certificates of eligibility for production and trading of industrial chemicals subject to

conditional production and trading (below referred to as certificates).

Article 9. Dossiers of application for new certificates applicable to producers of chemicals subject to conditional production and trading

1. Legal documents

a/ An application for a certificate, made according to the form provided in Appendix 2 to this Circular;

b/ A valid copy of the business registration certificate;

c/ A valid copy of the decision approving an investment project to build production works under the law on investment and construction management;

d/ A valid copy of the decision approving an environmental impact assessment report or the written certification of environmental protection commitment registration enclosed with a scheme, granted by a competent agency;

e/ A valid copy of the certificate of satisfaction of fire prevention and fighting conditions or the record of inspection of the assurance of fire prevention and fighting safety, granted by a competent police office.

2. Technical documents

a/ A list of workshops and warehouses of the producer of hazardous chemicals;

b/ A list of labor safety equipment, made according to the form provided in Appendix 3 to this Circular;

c/ A written announcement of regulation conformity and a plan on regular supervision of chemical quality based on chemical inspection equipment or a contract on cooperation with a capable chemical inspection body accredited by a competent state agency;

d/ Chemical safety cards of all hazardous chemicals of the producer.

3. Documents on conditions on producers

a/ A list of staff members, made according to the form provided in Appendix 4 to this Circular, including leading and managerial staff, technicians and employees directly engaged in the production, preservation and transportation of hazardous chemicals;

b/ Valid copies of university degrees in chemical disciplines of the director or deputy director in charge of technical matters; certificates of chemical-related skill training of technicians, employees and laborers of the producer;

c/ Health certificates issued by district- or higher-level health establishments to the persons defined at Point a of this Clause.

Article 10. Dossiers of application for new certificates applicable to traders of chemicals subject to conditional production and trading

1. Legal documents

a/ An application for a certificate, made according to the form provided in Appendix 2 to this Circular;

b/ A valid copy of the business registration certificate;

c/ A valid copy of the certificate of satisfaction of fire prevention and fighting conditions or the record of inspection of the assurance of fire prevention and fighting safety, issued by a competent police office;

d/ A written certification of environmental protection commitment registration, issued by a competent agency.

2. Technical documents

a/ A list of workshops and warehouses of each trader of hazardous chemicals;

b/ A list of labor safety equipment, made according to the form provided in Appendix 3 to this Circular;

c/ A list of special-use vehicles and a valid copy of the license for transportation of hazardous goods;

d/ A list of business places. If the trader has many business places for the same chemical, a separate dossier shall be made for each business place under this Article and a certificate shall be issued for all business places;

e/ Chemical safety cards of all hazardous chemicals of the trader.

3. Documents on conditions on traders

a/ A list of staff members, made according to the form provided in Appendix 4 to this Circular, including leading and managerial staff, technicians and employees directly engaged in the trading, preservation and transportation of hazardous chemicals;

b/ Valid copies of university degrees in chemical or econo-technical disciplines of the director or deputy director in charge of technical matters; certificates of chemical-related skill training of technicians, employees and laborers of the trader;

c/ Health certificates issued by district- or higher-level health establishments to the persons defined at Point a of this Clause.

Article 11. Certificate application dossiers of producers cum-traders of chemicals subject to conditional production and trading

For producers-cum-traders of chemicals subject to conditional production and trading, a certificate application dossier comprises:

1. An application for a certificate.
2. A valid copy of the business registration certificate.
3. Chemical safety cards of all hazardous chemicals of the producer-trader.
4. A list of staff members, made according to the form provided in Appendix 4 to this Circular,

including leading and managerial staff, technicians and employees directly engaged in the production, trading, preservation and transportation of hazardous chemicals.

5. Valid copies of university degrees in chemical or econo-technical disciplines of the director or deputy director in charge of technical matters; certificates of chemical-related skill training of technicians, employees and laborers of the producer-trader.

6. Health certificates issued by district- or higher-level health establishments to the persons defined in Clause 4 of this Article.

7. Documents specified at Points c, d and e, Clause 1; Points a, b and c, Clause 2, Article 9; and Points c and d, Clause 2, Article 10, of this Circular.

Article 12. Grant of modified and supplemented certificates

1. In case of any change in the contents of a granted certificate, an organization or individual shall send a dossier of application for a modified and supplemented certificate to the Industry and Trade Department.

2. Such a dossier comprises:

- a/ A written request for the certificate modification and supplementation;
- b/ The granted original certificate;
- c/ Documents evidencing such request.

Article 13. Re-grant of certificates

1. When a certificate is lost, burnt or otherwise destroyed, an organization or individual shall send a dossier of request for certificate re-grant to the Industry and Trade Department, comprising:

- a/ A written request for certificate re-grant;
- b/ A valid copy of the certificate (if any).

2. Thirty working days before a certificate

expires, an organization or individual shall send a dossier of request for certificate re-grant to the Industry and Trade Department, comprising:

- a/ A written request for certificate re-grant;
- b/ The granted certificate or its valid copy;
- c/ A report on chemical production and trading during the validity term of the certificate, indicating names of chemicals, their use purposes, volumes of produced, imported and used chemicals; volumes of chemicals warehoused, ex-warehoused and left in stock and places of storage of chemicals; application of safety measures; and other information (if any).

Article 14. Certificate grant procedures

1. A certificate applicant shall send one dossier set to the Industry and Trade Department.

2. Within 20 (twenty) days after receiving a complete and valid dossier specified in Article 9, 10, 11, 12 or 13 of this Circular, the Industry and Trade Department shall examine it and grant a certificate according to the form provided in Appendix 5 to this Circular to the applicant.

In case of refusal to grant a certificate, the Industry and Trade Department shall give a written reply clearly stating the reason.

3. Within 5 (five) days after receiving a dossier which is incomplete or invalid, the Industry and Trade Department shall request in writing the applicant to supplement the dossier.

4. Organizations and individuals that are granted certificates shall pay a fee prescribed by the Ministry of Finance.

5. A chemical producing or trading establishment that renames itself but does not change its production and trading conditions shall send to the Industry and Trade Department a valid copy of the enterprise-renaming decision and a written request for certificate renewal.

Article 15. Validity term of a certificate

A certificate is valid for 5 (five) years from the date of its grant. For an organization or individual that has many business places, a certificate must indicate all of these business places which are identified as satisfying prescribed conditions.

**Section 2. DOSSIERS AND PROCEDURES
FOR GRANT OF LICENSES FOR
PRODUCTION AND TRADING OF
INDUSTRIAL CHEMICALS RESTRICTED
FROM PRODUCTION AND TRADING**

Article 16. Organization granting licenses for production and trading of chemicals restricted from production and trading

The Ministry of Industry and Trade may grant licenses for production and trading of industrial chemicals restricted from production and trading (below referred to as licenses).

Article 17. Dossiers of application for new licenses applicable to producers of chemicals restricted from production and trading

1. Legal documents

a/ An application for a license, made according to the form provided in Appendix 6 to this Circular;

b/ A valid copy of the business registration certificate;

c/ A valid copy of the decision approving an investment project to build production works under the law on investment and construction management;

d/ A valid copy of the decision approving an environmental impact assessment report or the written certification of environmental protection commitment registration enclosed with a scheme, issued by a competent agency;

e/ A valid copy of the certificate of satisfaction of fire prevention and fighting conditions or the

record of inspection of the assurance of fire prevention and fighting safety, issued by a competent police office.

2. Technical documents

a/ A list of workshops and warehouses of the producer of hazardous chemicals;

b/ A list of labor safety equipment, made according to the form provided in Appendix 3 to this Circular;

c/ A written announcement of regulation conformity and a plan on regular supervision of chemical quality based on chemical inspection equipment or a contract on cooperation with a capable chemical inspection body accredited by a competent state agency;

d/ Chemical safety cards of all hazardous chemicals of the producer.

3. Documents on conditions on producers

a/ A list of staff members, made according to the form provided in Appendix 4 to this Circular, including leading and managerial staff, technicians and employees directly engaged in the production, preservation and transportation of hazardous chemicals;

b/ Valid copies of university degrees in chemical disciplines of the director or deputy director in charge of technical matters; certificates of chemical-related skill training of technicians, employees and laborers of the producer;

c/ Health certificates issued by district- or higher-level health establishments to the persons defined at Point a of this Clause.

Article 18. Dossiers of application for new licenses applicable to traders of chemicals restricted from production and trading

1. Legal documents

a/ An application for a license, made according to the form provided in Appendix 6 to this Circular;

b/ A valid copy of the business registration certificate;

c/ A valid copy of the certificate of satisfaction of fire prevention and fighting conditions or the record of inspection of the assurance of fire prevention and fighting safety, issued by a competent police office;

d/ A written certification of environmental protection commitment registration, issued by a competent agency.

2. Technical documents

a/ An explanatory document on the needs for chemical trading;

b/ A list of workshops and warehouses of each trader of hazardous chemicals;

c/ A list of labor safety equipment, made according to the form provided in Appendix 3 to this Circular;

d/ A list of special-use vehicles and a valid copy of the license for transportation of hazardous goods;

e/ A list of business places. If a trader has many business places for the same chemical, a separate dossier shall be made for each business place under this Article and a license shall be granted for all business places;

d/ Chemical safety cards of all hazardous chemicals of the trader.

3. Documents on conditions on traders

a/ A list of staff members, made according to the form provided in Appendix 4 to this Circular, including leading and managerial staff, technicians and employees directly engaged in the trading, preservation and transportation of hazardous chemicals;

b/ Valid copies of university degrees in chemical or econo-technical disciplines of the director or deputy director in charge of technical matters; certificates of chemical-related skill training of technicians, employees and laborers

of the trader;

c/ Health certificates issued by district- or higher-level health establishments to the persons defined at Point a of this Clause.

Article 19. Dossiers of application for licenses applicable to producers-cum-traders of chemicals restricted from production and trading

For producers-cum-traders of chemicals restricted from production and trading, a license application dossier comprises:

1. An application for a license.
2. A valid copy of the business registration certificate.
3. Chemical safety cards of all hazardous chemicals of the producer-trader.
4. A list of staff members, made according to the form provided in Appendix 4 to this Circular, including leading and managerial staff, technicians and employees directly engaged in the production, trading, preservation and transportation of hazardous chemicals.
5. Valid copies of university degrees in chemical or econo-technical disciplines of the director or deputy director in charge of technical matters; certificates of chemical-related skill training of technicians, employees and laborers of the producer-trader.
6. Health certificates issued by district- or higher-level health establishments to the persons defined in Clause 4 of this Article.
7. Documents specified at Points c, d and e, Clause 1, and Points a, b and c, Clause 2, Article 17; and Points a, d and e, Clause 2, Article 18, of this Circular.

Article 20. Grant of modified or supplemented licenses

1. In case of any change in the contents of a granted license, an organization or individual shall send a dossier of request for license

modification or supplementation to the Ministry of Industry and Trade.

2. Such a dossier comprises:

- a/ A written request for license modification or supplementation;
- b/ The granted original license;
- c/ Documents evidencing such request.

Article 21. Re-grant of licenses

1. When a license is lost, burnt or otherwise destroyed, an organization or individual shall send a dossier of request for license re-grant to the Ministry of Industry and Trade, comprising:

- a/ A written request for license re-grant;
- b/ A valid copy of the license (if any).

2. Thirty working days before a license expires, an organization or individual shall send a dossier of request for license re-grant to the Ministry of Industry and Trade (the Chemical Department), comprising:

- a/ A written request for license re-grant;
- b/ The granted license or its valid copy;
- c/ A report on chemical production and trading during the validity term of the granted license, indicating names of chemicals, their use purposes, volumes of produced, imported and used chemicals; volumes of chemicals warehoused, ex-warehoused and left in stock and places of storage of chemicals; application of safety measures; and other information (if any).

Article 22. Licensing procedures

1. A license applicant shall send one dossier set to the Ministry of Industry and Trade (the Chemical Department).

2. Within 20 (twenty) days after receiving a complete and valid dossier specified in Article 17, 18, 19, 20 or 21 of this Circular, the Ministry of Industry and Trade (the Chemical Department) shall examine it and grant a license according to

the form provided in Appendix 7 to this Circular to the applicant.

When refusing to grant a license, the Ministry of Industry and Trade (the Chemical Department) shall give a written reply clearly stating the reason.

3. Within 5 (five) days after receiving an incomplete or invalid dossier, the Ministry of Industry and Trade (the Chemical Department) shall request in writing the applicant to supplement the dossier.

4. Organizations or individuals that are granted licenses shall pay a fee under the Finance Ministry's regulations.

5. Chemical producers and traders conducting production and trading activities before the effective date of this Circular without a license shall, if wishing to continue these activities, carry out license application procedures under this Article.

6. Producers and traders of chemicals restricted from production and trading that cease production and trading activities or relocate their production and trading places shall report thereon in writing to the Ministry of Industry and Trade (the Chemical Department).

Article 23. Validity of a license

A license is valid for 3 (three) years from the date of its grant. For an organization or individual with many business places, a license must indicate all of these business places which are identified as satisfying the prescribed conditions.

Chapter IV

COMPILATION AND APPRAISAL OF DOSSIERS OF REQUEST FOR PERMISSION TO PRODUCE, IMPORT OR USE BANNED INDUSTRIAL CHEMICALS

Article 24. List of banned chemicals

To produce, import or use banned chemicals on the list specified in Clause 3, Article 3 of this Circular for security, defense, epidemic prevention and control and in other special cases in the industrial sector (below referred to as banned chemicals), organizations and individuals shall seek the Prime Minister's permission.

Article 25. Dossiers of request for permission to produce banned chemicals

To produce banned chemicals, an organization or individual shall send 2 (two) dossier sets to the Prime Minister and the Ministry of Industry and Trade (the Chemical Department). Such a dossier comprises documents specified in Article 17 of this Circular and the following:

1. A written request for permission to produce banned chemicals, made according to the form provided in Appendix 8 to this Circular.
2. A written commitment to producing banned chemicals.
3. An explanatory document on the needs for banned chemicals.

Article 26. Dossiers of request for permission to import banned chemicals

To import banned chemicals, an organization or individual shall send 2 (two) dossier sets to the Prime Minister and the Ministry of Industry and Trade (the Chemical Department). Such a dossier comprises:

1. A written request for permission to import banned chemicals, indicating the needs for and time of import, made according to the form provided in Appendix 9 to this Circular.
2. A valid copy of the license for production and trading of chemicals restricted from production and trading.
3. A report on the volume of chemicals to be imported in the plan year.

4. A valid copy of the chemical trading contract with a foreign enterprise.

Article 27. Dossiers of request for permission to use banned chemicals

To use banned chemicals, an organization or individual shall send 2 (two) dossier sets to the Prime Minister and the Ministry of Industry and Trade (the Chemical Department). Such a dossier comprises:

1. A written request for permission to use banned chemicals, indicating use purposes, scope and places, made according to the form provided in Appendix 10 to this Circular.

2. A valid copy of the business registration certificate.

3. A valid copy of the decision approving an environmental impact assessment report or the written certification of environmental protection commitment registration, issued by a competent authority.

4. A valid copy of the written certification of satisfaction of security and order conditions and the written approval of fire prevention and fighting or the record of inspection of the assurance of fire prevention and fighting safety, issued by a competent fire-fighting police office.

5. Construction designs of work items using banned chemicals.

6. A list of equipment for preventing and responding to chemical incidents and forces responding to chemical incidents.

7. A list of labor protection equipment, made according to the form provided in Appendix 3 to this Circular.

8. A list of workshops and warehouses of the user of banned chemicals.

9. A list of special-use vehicles and a valid copy of the license for transportation of hazardous goods.

10. Chemical safety cards of all hazardous chemicals of the user.

Article 28. Examination of dossiers of request for permission to produce, import or use banned chemicals

1. Appraisal of chemical production and trading conditions specified in Articles 11, 12 and 13 of the Law on Chemicals and examination of documents in application dossiers specified in Articles 25, 26 and 27 of this Circular.

2. Within 20 (twenty) working days after receiving a complete and valid dossier specified in Article 25, 26 or 27 of this Circular, the Ministry of Industry and Trade (the Chemical Department) shall examine the dossier. The Ministry of Industry and Trade's examination document shall be enclosed with the dossier to be submitted to the Prime Minister.

3. An organization or individual that wishes to supplement or change activities of his/her/its current establishment shall send a report and a detailed explanation document on such supplementation or change to the Ministry of Industry and Trade for examination before submitting it to the Prime Minister for approval.

Article 29. Management of production, import and use of banned chemicals

1. Upon request, producers, importers and users of banned chemicals shall comply with regulations on production, import and use data checking conducted by the Ministry of Industry and Trade in coordination with concerned agencies.

2. Producers, importers and users of banned chemicals shall send reports on the production, import and use of banned chemicals to the Ministry of Industry and Trade (the Chemical Department) before January 31 every year.

The contents of such a report comply with Clause 2, Article 52 of the Law on Chemicals.

*Chapter V*CHEMICAL INCIDENT PREVENTION
AND RESPONSE MEASURES AND PLANS

Article 30. Chemical incident prevention and response measures

1. Investors of projects on production, trading, use, storage and preservation of hazardous chemicals not on the list specified in Clause 1, Article 38 of the Law on Chemicals shall work out chemical incident prevention and response measures suitable to production scale and conditions and properties of chemicals.

2. Investors of projects on production, trading, use, storage and preservation of hazardous chemicals shall report on the application of measures to prevent and respond to chemical incidents, to Industry and Trade Departments of localities where they locate their establishments under Clause 1, Article 48 of this Circular.

Article 31. Making of chemical incident prevention and response plans

1. Investors of projects on production, trading, use, storage and preservation of hazardous chemicals on the list of chemicals specified in Appendix IV to Decree No. 108/2008/ND-CP with a volume exceeding the corresponding limit shall work out chemical incident prevention and response plans and submit them to competent authorities for approval under Clause 1, Article 34 of this Circular.

2. Investors of projects on production, trading, use, storage and preservation of hazardous chemicals may themselves make or hire consultants to make chemical incident prevention and response plans.

3. A chemical incident prevention and response plan shall be presented under the guidance in the form provided in Appendix 11 to this Circular.

Article 32. Contents of a chemical incident prevention and response plan

1. The contents of a chemical incident prevention and response plan comply with Article 39 of the Law on Chemicals.

2. Requirements on the specific contents of a plan to prevent and respond to chemical incidents are provided in Appendix 12 to this Circular.

Article 33. Dossier of request for approval of a plan to prevent and respond to chemical incidents

1. A written request of the investor of a project on production, trading, use, storage or preservation of hazardous chemicals, made according to the form provided in Appendix 13 to this Circular.

2. Ten (10) copies of the plan. If more copies are required to meet appraisal requirements, the investor shall additionally supply them at the request of the appraising agency.

3. Attached documents (if any).

Article 34. Appraisal or approval of plans to prevent and respond to chemical incidents

1. Appraising or approving agencies

a/ The Chemical Department shall receive and appraise plans to prevent and respond to chemical incidents for group-A and group-B investment projects on production, trading, use, storage or preservation of hazardous chemicals and submit these plans to the Minister of Industry and Trade for approval;

b/ Industry and Trade Departments shall receive, appraise and approve plans to prevent and respond to chemical incidents under group-C investment projects on production, trading, use, storage or preservation of hazardous chemicals;

c/ Projects on production, trading, use, storage or preservation of hazardous chemicals shall be classified by their size and characteristics under

the Government's Decree No. 12/2009/ND-CP of February 12, 2009, on management of work construction investment projects.

2. Appraisal of plans to prevent and respond to chemical incidents

a/ Pursuant to Clause 3, Article 40 of the Law on Chemicals, the time limit for appraising and approving a plan to prevent and respond to chemical incidents is 30 (thirty) days after the receiving agency receives a complete and valid dossier;

b/ Within 7 (seven) days after receiving a dossier, the receiving agency shall notify in writing the investor of the project on production, trading, use, storage or preservation of hazardous chemicals of the incompleteness or invalidity of the dossier and request supplementation thereof within a prescribed time limit;

c/ Within 15 (fifteen) days after obtaining the Appraisal Council's conclusions and assessments, the dossier-receiving agency shall:

- Submit the chemical incident prevention and response plan if it is satisfactory to a competent authority for approval; or,

- Notify the investor of the project on production, trading, use, storage or preservation of hazardous chemicals of the disapproval of his/her plan and clearly state the reason; or,

- Notify the investor of the plan's details to be completed and time limit for completion, in case such plan is required to be re-written. The appraisal order and procedures are the same as those for plans submitted for the first time.

A decision approving a plan to prevent and respond to chemical incidents shall be made according to the form provided in Appendix 13 to this Circular.

3. After a plan to prevent and respond to chemical incidents is approved, the investor of the project on production, trading, use, storage or

preservation of hazardous chemicals shall send it to the state management agency in charge of fire prevention and fighting, the local administration, the branch- or sector-managing agency and the management board of the industrial park, export-processing zone or economic zone in which the establishment is located.

Article 35. Operation of an Appraisal Council

1. A Council for appraising a chemical incident prevention and response plan shall be set up under a decision of the head of the agency with plan-approving competence. This Council shall be composed at least 9 (nine) members, including the Chairman, secretary and other members being representatives of concerned state management agencies, such as agency in charge of fire prevention and fighting and local administration, and experts. The Council shall assess and appraise the plan and make written conclusions.

An Appraisal Council's conclusions shall be made according to the form provided in Appendix 15 to this Circular.

2. An Appraisal Council shall operate on the principle of collective discussion. It shall terminate operation and automatically dissolve after the appraised chemical incident prevention and response plan is approved.

Article 36. Meetings of an Appraisal Council

1. The Council Chairman shall convene an appraisal meeting only when it is attended by at least 2/3 (two-thirds) of the Council's total members.

2. When a Council member cannot attend an appraisal meeting, he/she shall send his/her written opinions to the Council Chairman.

3. An agency competent to appraise and approve a chemical incident prevention and response plan shall send documents of a Council's meeting to the Council members at

least 5 (five) working days before the meeting is convened.

4. The Council members shall discuss the contents of a chemical incident prevention and response plan and other relevant matters. The Council Chairman shall, based on the consent of 2/3 (two-thirds) of members present at the meeting, conclude on the plan's satisfaction or non-satisfaction of set requirements.

5. The Council secretary shall make a minutes of the meeting, which must be signed by him/her and the Council Chairman.

Article 37. Appraisal charge

1. Investors of projects on production, trading, use, storage or preservation of hazardous chemicals shall pay once a charge for appraisal of plans to prevent and respond to chemical incidents simultaneously with the time of submission of plan dossiers.

2. Rates, collection, remittance and use management of the appraisal charge comply with the Finance Ministry's guidance.

Article 38. Management of measures or plans to prevent and respond to chemical incidents

1. In implementing an investment project on production, trading, use, storage or preservation of hazardous chemicals, the investor shall comply with the requirements in approved chemical incident prevention and response measures or plans.

2. In case changes in the course of investment or construction result in changes in the approved or certified safety requirements, the investor shall report such changes to the agency competent to approve chemical incident prevention and response plans for consideration and decision.

3. Chemical incident prevention and response measures or plans shall be kept at establishments producing, trading, using, storing or preserving

hazardous chemicals. These measures or plans serve as a basis for making plans to manage chemical safety in chemical production, trading, use, storage or preservation.

4. Annually, investors of projects on production, trading, use, storage or preservation of hazardous chemicals shall plan and organize chemical incident prevention and response drills according to chemical incident prevention and response measures or plans.

Chapter VI

TOXIC CHEMICAL TRADING CONTROL CARDS; MAKING OF CHEMICAL SAFETY CARDS; REGISTRATION DOSSIERS AND ASSESSMENT OF NEW CHEMICALS; INFORMATION CONFIDENTIALITY

Article 39. Toxic chemical trading control cards

1. Pursuant to Clauses 1 and 3, Article 23 of the Law on Chemicals, control cards must be made for toxic chemical trading, which shall be kept by sellers and purchasers and must be produced upon request.

2. A toxic chemical trading control card shall be made according to the form provided in Appendix 16 to this Circular.

Article 40. Making of chemical safety cards

1. Chemical safety cards must be made for chemicals classified as hazardous chemicals under Clause 1, Article 29 of the Law on Chemicals and Articles 16 and 17 of Decree No. 108/2008/ND-CP.

2. Pursuant to Clause 2, Article 29 of the Law on Chemicals, before putting hazardous chemicals into use or for sale in the market, producers and importers shall make chemical safety cards. These cards shall be handed free to

recipients of hazardous chemicals right at the first-time delivery of the chemicals and upon changes in their contents as specified in Clause 3 of this Article.

3. When scientific proof shows changes in hazardous properties of a chemical, organizations or individuals carrying out activities related to this chemical shall modify chemical safety cards within 15 (fifteen) working days after obtaining new information. Producers and importers defined in Clause 2 of this Article shall immediately supply modified cards to organizations and individuals related to this chemical. The date and contents of modification must be indicated with clear marks to users of chemical safety cards.

4. Producers and importers of hazardous chemicals shall preserve chemical safety cards of all hazardous chemicals currently in their establishments and produce these cards upon request, ensuring that information on such chemicals in their safety cards is readily available to all entities related to hazardous chemicals.

5. Form and contents of a chemical safety card

a/ A chemical safety card must be printed in Vietnamese enclosed with the original or English version of the producer;

b/ For a chemical safety card consisting of many pages, such pages must be numbered consecutively from the first to the last. The number on each page consists of the ordinal number of the page and the number showing the total pages of the card. The card's every two adjoining pages shall be appended with the producer's or importer's stamp on their inner edges;

c/ A chemical safety card contains the contents specified in Clause 3, Article 29 of the Law on Chemicals;

d/ A chemical safety card shall be made according to the form provided in Appendix 17

to this Circular.

Article 41. Registration dossiers of and organizations assessing new chemicals

1. Registration dossier of new chemicals

a/ A new chemical may be put into use or sale in the market only after the result of its assessment by an assessing organization is obtained;

b/ A registration dossier of a new chemical shall be compiled under Clause 2, Article 44 of the Law on Chemicals. To produce or import a new chemical, an organization or individual shall send 2 (two) dossier sets of registration of new chemical to the Ministry of Industry and Trade (the Chemical Department);

c/ To produce or import a new chemical which has been included on at least two foreign lists of chemicals, an organization or individual shall send a registration dossier comprising:

- A written registration of a new chemical;
- A summary report on the chemical's assessment, enclosed with the CAS or UN code of the new chemical in such two lists;

d/ To produce or import a new chemical, an organization or individual shall submit dossiers and documents specified at Points b and c of this Clause to the Ministry of Industry and Trade (the Chemical Department) within 30 (thirty) working days.

2. Organizations assessing new chemicals

a/ New chemicals shall be assessed by professionally capable chemical, medical and environmental toxicology organizations designated by the Minister of Industry and Trade;

b/ Assessment results include information on properties of chemicals and information serving the making of chemical safety cards for new chemicals with hazardous properties.

Article 42. Management of activities related

to new chemicals

1. Organizations and individuals engaged in activities related to new chemicals specified in Article 46 of the Law on Chemicals shall report these activities to line ministries and the Ministry of Industry and Trade (the Chemical Department).

A report on a new chemical shall be made according to the form provided in Appendix 18 to this Circular.

2. Five (5) years after a new chemical is registered if it has no serious effects or effects with a danger level different from the initial conclusions on its assessment, it will be added to the national list of chemicals.

3. The Ministry of Industry and Trade (the Chemical Department) shall inspect and supervise the compliance with conditions on new chemicals; handle violations under law or conduct additional assessment of new chemicals when there is proof that such chemicals have serious effects different from assessment conclusions; and notify customs offices and concerned agencies of assessment results upon concluding the assessment.

Article 43. Information confidentiality

1. Organizations and individuals engaged in chemical activities shall comply with regulations on information confidentiality under Article 19 of Decree No. 108/2008/ND-CP.

2. Agencies and persons receiving chemical declarations, registrations or reports shall keep secret confidential information at the request of declaring, registering and reporting parties, except the case specified in Clause 1, Article 51 of the Law on Chemicals.

3. Agencies and persons receiving chemical declarations, registrations or reports may not send confidential information via the wide-area

information network.

4. Cadres and civil servants assigned to perform information confidentiality duties shall make a written commitments to protecting information confidentiality, which shall be filed in their personnel dossiers. Such a written commitment must clearly indicate responsibilities of the cadre or civil servant concerned, who shall be handled under current regulations for any violations.

5. When sending confidential information of organizations and individuals engaged in chemical activities that request information confidentiality, agencies and persons receiving chemical declarations, registrations or reports:

a/ Shall keep books for monitoring outgoing confidential information. In such a book, all the following items must be fully filled in: ordinal number, date and place of receipt of information, main content, level of confidentiality, level of urgency and signature and full name of the recipient. Outgoing confidential information documents must be put in sealed envelopes;

b/ May not put outgoing confidential information documents together with ordinary documents. Their envelopes must be appended with a mark showing the level of confidentiality.

6. Upon receiving confidential information, recipients shall give feedback to senders.

7. Incoming confidential information documents must be recorded in a book for monitoring incoming confidential information and transferred to responsible persons for handling.

8. Confidential information documents must be strictly preserved in safe places designated by heads of concerned units. Confidential information documents may not be brought out of the unit's premises without permission. They must be stored in document chests, desks or safes with secure locks.

9. Destruction of confidential information is subject to approval of a competent authority.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 44. Responsibilities of the Chemical Department

To disseminate, guide, monitor and inspect the implementation of this Circular. To periodically inspect production and trading conditions of hazardous chemical producers and traders as specified in licenses for production and trading of industrial chemicals restricted from production and trading.

Article 45. Responsibilities of the Industrial Safety Techniques and Environment Agency

To guide and inspect the observance of safety techniques in production, trading, use, storage and preservation of hazardous industrial chemicals.

Article 46. Responsibilities of Industry and Trade Departments

1. To disseminate this Circular to and guide chemical producers, traders and users in localities in implementing this Circular.

2. To inspect and examine conditions on production and trading of hazardous chemicals specified in certificates of eligibility for production and trading of industrial chemicals subject to conditional production and trading, and handle under regulations organizations and individuals engaged in chemical activities in localities under their management that commit administrative violations in chemical activities.

Article 47. Responsibilities of organizations and individuals engaged in chemical activities

1. Chemical producers and traders defined in Chapter III of this Circular must satisfy

conditions on physical-technical foundations suitable to their operation scale and properties of chemicals under Article 12 of the Law on Chemicals and this Circular.

2. Organizations and individuals engaged in chemical activities may produce and trade in hazardous chemicals only when they are fully qualified and possess certificates or licenses granted by competent state agencies under this Circular.

3. Organizations and individuals engaged in chemical activities shall maintain production and trading conditions indicated in the granted certificates or licenses during chemical production and trading.

4. Organizations and individuals engaged in chemical activities shall properly and fully comply with approved regulations on prevention and response to chemical incidents.

5. Organizations and individuals engaged in chemical activities shall create favorable conditions for competent agencies to inspect chemical production and trading conditions under regulations.

6. Organizations and individuals engaged in chemical activities shall observe competent agencies' regulations on examination and inspection.

Article 48. Regular reporting

1. Organizations and individuals engaged in chemical activities shall:

a/ Send before June 10 and December 10, respectively, biannual and annual reports to Industry and Trade Departments, on:

- Production of and trading in chemicals subject to conditional production and trading;
- Chemical safety at their establishments;
- Situation and results of implementation of measures or plans to prevent and respond to incidents of group-C chemicals;

b/ Send before June 1 and December 1, respectively, biannual and annual reports to the Ministry of Industry and Trade (the Chemical Department), on:

- Production and trading of chemicals restricted from production and trading;

- Situation and results of implementation of plans to prevent and respond to incidents of chemicals of groups A and B.

2. Industry and Trade Departments shall summarize and report to the Ministry of Industry and Trade (The Chemical Department) on chemical activities in localities under their management, based on the contents specified at Point a, Clause I of this Article, before June 15, for biannual reports, or December 15, for annual reports.

3. A chemical safety report shall be made according to the form provided in Appendix 19 to this Circular.

Article 49. Handling of violations

1. Production and trading activities of organizations and individuals engaged in chemical activities that possess certificates or licenses while failing to satisfy prescribed conditions will be regarded as illegal activities.

2. If organizations or individuals that breach production and trading conditions specified in the Law on Chemicals, Decree No. 108/2008/ND-CP and this Circular fail to promptly redress such breaches, agencies that have granted certificates or licenses to them shall revoke these certificates or licenses under Clause 2, Article 18 of the Law on Chemicals. Violators of regulations on chemical activities shall, depending on the nature and severity of their violations, be handled under regulations. If causing damage, they shall pay compensation under law.

3. Agencies or individuals responsible for granting certificates or licenses that commit

violations shall, depending on the severity of their violations, be administratively sanctioned under the Government's Decree No. 90/2009/ND-CP of October 20, 2009, on sanctioning of administrative violations in chemical activities, or examined for penal liability.

Article 50. Effect

1. This Circular takes effect on August 16, 2010.

2. This Circular supersedes Circular No. 12/2006/TT-BCN of December 22, 2006, of the Ministry of Industry (now the Ministry of Industry and Trade), guiding the implementation of the Government's Decree No. 68/2005/ND-CP of May 20, 2005, on chemical safety.

3. From January 1, 2011, producers and traders of hazardous chemicals shall carry out procedures to apply for certificates or licenses under this Circular. Organizations or individuals that fail to satisfy all the conditions on production and trading of chemicals subject to conditional production and trading or chemicals restricted from production and trading specified in the Law on Chemicals, Decree No. 108/2008/ND-CP and this Circular, shall cease producing and trading chemicals until they fully satisfy the prescribed conditions.

4. Any problems arising in the course of implementation should be promptly reported to the Ministry of Industry and Trade for appropriate amendment or supplementation.

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

** Note: All the appendices mentioned in this Circular are not printed herein.-*