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MOH revises Regulation on Food Safety Inspection for Import Foods

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Report Highlights:

On December 21, 2015, the Ministry of Health (MOH) issued Circular 52/2015/TT-BYT stipulating state inspection of food safety in respect to imported and exported food products under the management scope of MOH. This Circular is MOH's new regulation to revise the methods of food safety inspection in order to comply with Vietnam's Food Safety Law. This Circular replaces MOH's Decision 23/2007/QD-BYT and takes effect on February 23, 2016.

Summary:

Although Vietnam's Food Safety Law (FSL) entered into force on July 1, 2011, a number of regulations enforcing various parts of the Law took some time before they were published. Circular 52/2015/TT-BYT is MOH's new regulation revising the methods of food safety inspection to make them in compliance with the FSL. This Circular replaces Decision 23/2007/QD-BYT and takes effect on February 23, 2016.

According to the FSL and Decree 38/2012/ND-CP, MOH is responsible for the inspection of imports including food additives, food processing aids, bottled water, natural mineral water, functional food, food fortified with micronutrients, utensils and packaging materials in direct contact with food, and food containers. The details of the import foods products under MOH's jurisdiction are specified in Appendix 1 of Inter-Ministerial-Circular 13/2014/TTLT-BYT-BNNPTNT-BCT ([VM4029](#)). In addition, according to Decree 38/2012/ND-CP, MOH shall be responsible for food safety inspection of imported consignments containing mixed kinds of foods (except for fresh food under Ministry of Agriculture and Rural Development's management) that are within the scope of authority of two or more Ministries. For example, if a consignment contains both fruit juice which is under Ministry of Industry and Trade's jurisdiction and bottled water which is under MOH's jurisdiction, then MOH shall be responsible for inspection of the consignment.

Chapter II of Circular 52/2015/TT-BYT regulates the methods of inspection and the application of these methods in evaluating imported food products under MOH's jurisdiction. Article 3 stipulates that the state inspection agencies for food safety (hereinafter referred to as the inspection agency) are agencies and entities which have sufficient technical competence to conduct inspection and testing of food products, as assigned by MOH. The list of inspection agencies currently assigned by MOH is provided in Appendix III of the FAIRS Country Report 2015 ([VM5072](#)). Article 4 specifies the basis for checking the inspection results including dossiers for conformity announcement with technical regulations or food safety regulations and Vietnamese and international regulations for quality, food safety, and labeling of goods. In compliance with the FSL, Article 5 stipulates inspection methods including Normal inspection, Tighten inspection, and Simplified inspection. Article 6 regulates the application of inspection methods.

In comparison with Decision 23/2007, normal inspection under Circular 52/2015/TT-BYT does not require the testing of criteria indicating hygiene, quality, and food safety for all consignments. However, it remains unclear how the inspection agency identifies "suspicious signs of visual indicators, packaging status, and special preservation" in the course of inspection, then how the inspection agency takes representative samples and determines the testing criteria based on "the nature of composition, quality history of foods, history of importers, countries and territories of origin, and quality management system applied for the foods." Normal inspection applies to 100% of imported food product consignments, except for cases subject to tightened or simplified inspection.

Tightened inspection applies to foods failing to meet the requirements in a previous inspection and foods that received a warning by MOH or the Competent Authority of the foreign country or manufacturers. Tightened inspection is changed to normal inspection if the inspection results in 2 (two) consecutive consignments satisfy import requirements; or when the Vietnam Food Administration (VFA) issues a written notice ending tightened inspection. Article 22 of this Circular stipulates that VFA shall publish notices of warning or notices to end the warning of MOH or the Competent Authorities of foreign countries or manufacturers on VFA's website and send information to customs authorities and inspection agencies in case that food is suspected unsafe.

Simplified inspection means inspection of dossiers only. Paragraph 2, Article 5 specifies these cases for applying simplified inspection. In order to apply this inspection method, the importer is required to submit a written request to VFA. Within 5 (five) working days from the date of receiving the importer's request, VFA shall issue a notice of approval or disapproval of the application for simplified inspection. The maximum duration for application of simplified inspection is 12 (twelves) months.

Article 7 of this Circular stipulates the composition of the dossiers of registration for inspection, including: (1) Registration form for inspection of imported food; (2) Notarized copy or copy with trader¹'s stamp enclosed with the original for comparison or copy with trader's stamp obtained from VFA's online registration system in respect to dossiers of conformity announcement; (3) Notice on approval of simplified inspection by VFA (if any); (4) Power of attorney of the trader who is responsible for the food quality authorizing organizations or individuals to conduct the food importation (if any); (5) Copy of packing list; and a (6) Copy of bill of lading and invoice which are true certified by trader.

Procedures of inspection are outlined in Article 8. A registration for inspection needs to be submitted to the inspection agency or at the National Single Window (NSW) web portal before a consignment arrives at the border-gate. For consignments subject to simplified inspection, the inspection agency shall issue a notice of result, which certifies that food meets or fails to meet the import requirements within a maximum duration of 2 (two) working days from the time of receipt of an adequate registration dossiers. A notice of result will be issued within 6 (six) working days for consignments subject to normal inspection and 8 (eight) working days for consignments subject to tightened inspection since the inspection agency takes samples for testing.

When a consignment fails to meet the import requirements, the inspection agency will specify the handling measures in a notice of result as stipulated in the FSL. Handling measures include: repairing product errors and labeling errors, conversion of use purpose, re-export, or destruction of the consignment. Then, the inspection agency shall notify importer and immediately send the entire dossiers

¹ In this Circular, "trader" is used to indicate the individual or enterprise that registers the conformity announcement of food with VFA; therefore it is responsible for food quality. Traders may be importers in case they import food directly or they can authorize the importation to a different organization.

to VFA. The importer may request the inspection agency to reconsider the inspection results and consignment-handling measures or conduct re-inspection within a maximum time-limit of 5 (five) working days from the time of the receipt of notice of unsatisfied results. In comparison with Decision 23/2007, the duration for VFA issuing an official letter to decide the handling measures for consignment is shortened to 5 (five) working days from the time of receipt of an importer's proposal on measures for handling consignment and all dossiers of the inspection agency.

While Circular 52/2015 is not yet implemented, FAS-Hanoi is concerned that certain provisions could create difficulties for trading partner authorities, Vietnamese importers, and their export suppliers. Should U.S. food exporters have any comments or questions, please contact Post via email: aghanoi@fas.usda.gov or the Vietnam Food Administration (VFA) at vfa@vfa.gov.vn.

The full Circular 52/2015 in Vietnamese is available at:

<http://vfa.gov.vn/van-ban/thong-tu-quy-dinh-viec-kiem-tra-nha-nuoc-ve-an-toan-thuc-pham-doi-voi-thuc-pham-nhap-khau-va-ho-so-thu-tuc-cap-giay-chung-nhan-doi-voi-thuc-pham-xuat-khau-thuoc-pham-vi-quan-ly-cua-bo-y-te.html>

Below is an unofficial translation of Circular 52/2015.

MINISTRY OF HEALTH SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 52/2015/TT-BYT

Hanoi, December 21, 2015

CIRCULAR
on stipulating State inspection of food safety in respect to imported food and application dossiers and procedures for issuance of certificate of exported food under the management scope of the Ministry of Health

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

Pursuant to the Law on quality of products and goods dated November 21, 2007;

Pursuant to Decree 38/2012/ND-CP dated April 25, 2012 of the Government making detailed provisions for the implementation of some articles of the Law on Food Safety;

Pursuant to Decree 63/2012/ND-CP dated August 31, 2012 of Government stipulating functions, tasks, power and organizational structure of the Ministry of Health

Pursuant to Decision 10/2010/QD-TTg dated February 10, 2010 of the Prime Minister stipulating the issuance of certificates of free sale for exported and imported products and goods;

At the request of the Director of the Department of Food Safety;

The Minister of Health hereby issues Circular stipulating the State inspection of food safety for imported food and application dossiers and procedures for issuance of certificates for exported food under the management scope of the Ministry of Health

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular provides for the followings:

1. The inspection of imported food products under the management scope of the Ministry of Health as specified in:
 - a) Appendix 1 of Joint-Circular 13/2014/ TTLT-BYT-BNNPTNT-BCT dated April 9, 2014 of the Ministry of Health, Ministry of Agriculture and Rural Development and the Ministry of Industry and Trade guiding the assignment and coordination in the State management of food safety (hereinafter referred to as the Joint-Circular 13/2014/TTLT/BYT-BNNPTNT-BCT);
 - b) Clause 3, Article 14 of Decree 38/2012/ND-CP dated April 25, 2012 of the Government making detailed provisions for the implementation of some articles of the Law on Food Safety.
2. Application dossiers and procedures for issuance and revocation of certificates of free sale for exported food products under the management scope of the Ministry of Health.
3. Application dossiers and procedures for issuance and revocation of health certificates, certificates of exportation for exported food products.
4. This Circular does not stipulate inspection of imported food, which is exempt from inspection specified in Clause 2, Article 14 of Decree 38/2012/ND-CP dated April 25, 2012 of the Government making detailed provisions for the implementation of some articles of the Law on Food Safety.

Article 2. Interpretation of terms

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

1. Owners of goods mean traders responsible for the quality of goods in announced dossiers (referred to as traders) or organizations and individuals to whom these traders authorize to carry out the importation and exportation of food products.
2. Goods (Batch of products) means food products with the same name, trademark, goods-producing establishments and packaging materials;

3. Consignment means the entire food products of an imported or exported consignment (with the same bill of lading). Consignment of goods may have only one goods item or more than one goods item.

Chapter II

STATE INSPECTION OF IMPORTED FOOD

Article 3. State inspection agencies for food safety

State inspection agencies for food safety (hereinafter referred to as the inspection agency) are agencies and entities, which are eligible and have sufficient technical competence to conduct inspection and testing of food products, as assigned by the Ministry of Health.

Article 4. Basis for comparison of inspection results

1. Dossiers for announcement of regulation conformity or announcement of compliance with food safety regulations.
2. Vietnamese national technical regulations and international regulations for quality, food safety and labeling of goods.

Article 5. Methods of inspection

1. Common methods of inspection means inspecting dossiers and taking representative samples for sensory inspection, inspection of labeling, packaging status and special preservation status (if any).

In the course of inspection, if suspicious signs of sensory indicators, packaging status and special preservation status (if any) are detected, inspection agencies shall base themselves on the nature of composition, goods' quality history, importing history of owners of goods and region and territory of origin, applicable quality management system for the goods to select the group and quantity of target, which needs to be tested.

2. Tightened method of inspection is one of the following cases;
 - a) Inspecting dossiers and taking adequate samples for testing the groups of indicators in the announced dossiers for goods failing to meet [the requirements] in the previous inspections;
 - b) Inspecting in common methods and testing warned indicators or requiring to provide certificate of analysis for the warned indicators of laboratories accredited and recognized by state competent agencies of exporting country for goods, which is warned by the Ministry of Health or competent agency of foreign countries or the manufacturer.
3. Simplified method of inspection means the inspection of dossiers only

Simplified method of inspection is applied only for a maximum duration of 12 months from the time of application of simplified method of inspection.

Article 6. Application of methods of inspection

1. Common inspection applies to 100% of goods of imported consignment, except for the cases as provided for in Clauses 2 and 3 of this Article.
2. Simplified inspection applies to goods in one of the cases stipulated in Points a, b and c of this Clause, as follows:
 - a) Food safety requirement satisfaction has been certified by competent agencies or competent organizations of countries having signed international agreements on mutual recognition in activities of quality and safe food inspection under which Vietnam is the member; results of goods inspection by the competent agency of the exporting country are compliant with the compulsorily-applied provisions of Vietnam;
 - b) Having satisfactorily met the import requirements after 3 consecutive times of inspection on various dates within 12 months in common inspection manner, at the same time, having satisfactorily met the requirements in the times of inspections (if any);
 - c) After having applied the simplified method of inspection for 12 months, there are satisfactory inspection results in the times of periodical inspection as stipulated in Clause 1, Article 13 of Circular 19/2012/TT-BYT dated November 9, 2012 of the Minister of Health providing guidelines for announcement of regulation conformity and announcement of compliance with food safety regulations;
 - d) The application of simplified method of inspection may be conducted only when there is notification of Department of Food Safety – the Ministry of Health on the basis of considering the requirements specified in Points a, b and c, Clause 2 of this Articles.

For being issued with notice, owners of goods are requested to submit a written Request for application of simplified method of inspection for imported foods in accordance with provisions of Appendix 1A promulgated in conjunction with this Circular. Within 05 (five) working days from the date of receiving the goods owner's written Request, the Department of Food Safety – the Ministry of Health shall issue notice on allowance or disallowance of the application of the simplified method of inspection as stipulated in Appendix 1B promulgated in conjunction with this Circular.

3. Tightened inspection applies to imported goods in one of the following cases:
 - a) Goods failing to meet the import requirements in the previous times of inspection.
 - b) There is warning from the Ministry of Health or the competent authority in foreign country or the manufacturer.
4. Case of changing from tightened inspection to common inspection:

- a) When conducting inspection 2 (two) consecutive times in accordance with tightened method of inspection that results of inspection meet the import requirements, the goods may be applied with common method of inspection stipulated in Clause 1 of this Article in the subsequent times of imports for goods which fail to meet the import requirements in the previous time of inspection.
- b) When there is a written notice of discontinuation of tightened inspection from the Department of Food Safety – the Ministry of Health for cases that there is warning of the Ministry of Health or from the competent authority of foreign country or from the manufacturer.

Article 7. Application dossiers of registration of inspection

1. Written registration of inspection of imported food is made in accordance with the form stipulated in Appendix 2 issued in conjunction with this Circular.
2. True-certified copy or copy with stamp of the trader enclosed with original copy for comparison or copy with stamp of the trader obtained from online network in respect to dossier of announcement of regulation conformity or announcement of compliance with the food safety regulations.
3. Notice of the Department of Food Safety – the Ministry of Health to permit the application of simplified method of inspection (if any).
4. Documents of authorization of trader responsible for the quality goods, which authorize organizations and individuals conducting the food product-importing work (if any)
5. Copy of attached packing list;
6. Copy which is true certified and confirmed by owner of goods: Bill of lading, invoice.

Article 8: Inspection procedure

1. Before goods arrive at border-gate, owners of goods shall submit application dossiers for registration of inspection at the inspection agency or national web portal of one-stop-shop mechanism when the Ministry of Health decides to apply [such mechanism].
2. Within 1 (one) working day from the time of receipt of application dossier for registration of inspection, the inspection agency shall consider the application dossiers for registration of inspection;
 - a) In case where the application dossiers are adequate under the provision of Article 7 of this Circular, the inspection is conducted in accordance with Clause 3 or Clause 4 of this Article;
 - b) If application dossiers are not adequate under the provisions of Article 7 of this Circular, inspection agency must issue a written document on returning the application dossiers for registration of inspection, which must specifically inform owners of goods about documents which are inadequate or incompliant with the requirements.

3. Inspection of consignments or goods subject to simplified inspection shall be carried out as follows: During a maximum duration of two (2) working days from the time of receipt of an adequate application dossiers for registration, inspection agency is responsible for issuing Notice of results, which certifies that food meets or fails to meet the import requirements, in accordance with the form specified in Appendix 3 issued in conjunction with this Circular.
4. The inspection of consignments or goods subject to inspection in accordance with common method of inspection and tightened method of inspection shall be conducted, as follows:
 - a) Within the maximum time-limit of 2 (two) working days from the time of receipt of adequate application dossiers for registration, inspection agency is responsible for taking samples in order to conduct inspection for case that consignments are arrived at the border-gate at the time owner of goods submits the application dossiers for registration of inspection.

Where consignments have not arrived at border-gate at the time when owner of goods submits the application dossiers for registration of inspection, the maximum time-limit for taking samples shall be 2 (two) days from the time of receipt of goods owner's written notice on consignments arrived at border-gate;

- b) Within 6 (six) working days for goods subject to common inspection and 8 (eight) working days for goods subject to tightened inspection, inspection agency shall be responsible for:
 - Organizing the inspection on the basis of dossiers on regulation conformity announcement or dossiers on announcement of compliance with the regulations on food safety and Vietnamese and international regulations and national technical regulations on quality, food safety and labeling of goods;
 - Issuing notice on results which certifies that food meets or fails to meet the import requirements in accordance with the form specified in Appendix 3 issued in conjunction with this Circular.
5. Where goods fails to meet the import requirements, inspection agency shall have to specify handling measures and proposal in notice on results, which certifies that food fails to meet the import requirements in accordance with the form specified in Clause 3 of Article 55 of the Law on Food Safety, and then [inspection agencies] notify owner of goods and immediately send the entire application dossiers to the Department of Food Safety – the Ministry of Health.
6. Within a maximum time-limit of 5 (five) working days from the time of receipt of notice on results, which certifies that food fails to meet the import requirements, owner of goods may request inspection agency to reconsider the inspection result and consignment-handling measures or conduct re-inspection.
7. Within a maximum time-limit of 5 (five) working days from the time of receipt of goods owner's proposal on measures for handling consignment or goods and all dossier of inspection agency, the Department of Food Safety – the Ministry of Health shall issue official letter to decide the handling form for goods failing to meet the import requirements.

Article 9. Report on handling results for food products failing to ensure the import safety

1. After completing the handling of unsatisfactory goods, owner of goods shall be responsible for sending to inspection agency one of the following documents:
 - a) Re-export documents for cases that re-export are applied;
 - b) Contract with the destruction-handling agency, which is accompanied by certification minutes of the environment managing agency or inspection agency of the Health Service of locality in which the destruction is conducted;
 - c) Contract on change of use purpose between owner of goods and purchaser or [contract on] transfer together with purchase invoice or transfer paper. Party purchasing or being transferred with goods, which fails to meet the import requirements, may not be permitted to use such goods as food, except for the cases as specified in Clause 2 of this Article;
 - d) A written report on measures and address where error of products or labeling error is fixed.
2. After fixing errors of products and labeling error, if [owner of goods] wishes to import [such products] into Vietnam, owner of goods is responsible for conducting the procedure for registration in accordance with Article 8 of this Circular.

Where goods still fails to meet the import requirements, it is not permitted to be applied with the form of fixing error of products, labeling error and shall compulsorily be required to apply one of the handling forms stipulated in Points b, c and d, Clause 3 of Article 55 of the Law on Food Safety.

Chapter III

APPLICATION DOSSIERS AND PROCEDURES FOR ISSUANCE AND REVOCATION OF CERTIFICATE OF FREE SALE, CERTIFICATE OF EXPORTATION FOR EXPORTED FOOD PRODUCTS

Article 10. Exported food products are issued with Certificate of Free Sale (CFS), Certificate of Exportation (CE).

1. Certificate of Free Sale is issued for food products specified in Appendix 1 of Joint-Circular 13/2014/TTLT-BYT-BNNPTNT-BCT.
2. Certificate of Exportation is issued for food products, which have written Receipt of regulation conformity announcement or Confirmation on announcement of conformity with the food safety regulations when there is request of the importing country.

Article 11. Application dossiers for issuance of CFS, CE

Application dossiers for issuance of CFS, CE for 1 (one) food product includes the followings:

1. An application for issuance of CFS, CE in accordance with the form specified in Appendix 4 issued in conjunction with this Circular.
2. Written Receipt of regulation conformity announcement or Confirmation on announcement of compliance with the food safety regulations (true-certified copy).

Article 12. Competence, consequence and procedures for issuance of CFS, CE

1. Organizations and individuals producing and trading food products shall submit the application dossiers to the Department of Food Safety - Ministry of Health (submitted in person or by post).
2. Upon receipt of the application dossiers for issuance of CFS, CE, the dossier-receiving department shall have to examine the application dossiers, write [information]in the Receipt Books and issue Dossier-Receiving Cards for organizations and individuals in accordance with the forms specified in Appendix 5 issued in conjunction with this Circular.
3. Within 5 (five) working days from the date specified on dossier-receiving card, the competent State agency specified in Clause 1 of this Article shall have to issue CFS, CE in accordance with the forms specified in Appendix 6 and Appendix 7 as issued in conjunction with this Circular or in accordance with the forms required by importing country. In case of refusal, reply in writing, clearly stating the reasons therefore.
4. CFS, CE take effect for 2 (two) years from date of issuance and shall not exceed the effective period of written Receipt of regulation conformity announcement or Confirmation of announcement on compliance with the food safety regulations.

Article 13. Cases of revocation of CFS, CE are as follows:

1. Organizations and individuals applying for issuance of CFS, CE forged documents.
2. CFS, CE is issued for food products, but such products fail to conform with the standards, technical regulations, which are announced for application.
3. Written Receipt of regulation conformity announcement or Confirmation of announcement on compliance with the food safety regulations of that food products is revoked.
4. CFS, CE is issued ultra vires.

Article 14. Competence and procedure for revoking CFS, CE

1. Competent State agencies which issue CFS, CE shall promulgate document on revocation of CFS, CE and send document to organizations or individuals which have been issued with CFS, CE.
2. Within a time-limit of 5 (five) working days from the date of receipt of document on revocation of CFS, CE from competent State agency, organizations and individuals having been issued with CFS, CE shall have to submit issued CFS, CE to State agency which has the competence to issue CFS, CE.

3. Where it is impossible to revoke the issued CFS, CE, State agency has competence to issue CFS, CE shall post information on its electronic information page and shall notify the customs body that CFS, CE mentioned in Clause 1 of this Article is no longer of full force and effect.

Chapter IV

APPLICATION DOSSIERS AND PROCEDURES FOR ISSUANCE AND REVOCATION OF HEALTH CERTIFICATES FOR EXPORTED FOOD PRODUCTS

Article 15. Exported food products issued with Health Certificate

Health Certificate (HC) is issued for food, food additives, processing aids; tools, packaging materials, and food containers when the organizations and individuals request.

Article 16. Application dossiers for issuance of HC

Application dossiers for issuance of HC for 1 (one) export consignment include the followings:

1. An application for issuance of HC in accordance with the form specified in Appendix 8 issued together with this Circular.
2. Test results of each goods of export consignments, including the indicators required by the corresponding Technical Regulations (for products supported by Technical Regulations) or the principal quality indicators, safety indicators in accordance with the regulations (for products having not been supported by Technical Regulations), information about name of goods, batch number, manufacturing date, expiry date, which are conducted by designated laboratory or accredited independent laboratory or recognized laboratory. (Original or true-certified copy).
3. Form of label (copy certified by organization or individual).
4. Certificate of business registration, Certificate of establishment eligible for food safety (unless otherwise specified in Clause 1, Article 12 of Decree 38/2012/ND-CP dated April 25, 2012 of Government making detailed provisions for implementation of some articles of the Law on Food Safety) or written Receipt of regulation conformity announcement or Confirmation of announcement on compliance with the food safety regulations (copy certified by organization or individual).

Article 17. Competence and procedures for issuance of HC

1. Organizations and individuals producing and trading food products, which request for issuance of HC, shall submit application dossiers to the Department of Food Safety – the Ministry of Health (submitted in person or by post).
2. Upon receipt of application dossiers for issuance of HC, dossier-receiving department must examine application dossiers, write [information] in the Receipt Books and issue Dossier-

Receiving Card for organizations and individuals in accordance with the form specified in Appendix 5 promulgated in conjunction with this Circular.

3. Within a time-limit of 5 (five) working days from the date specified in Dossiers-Receiving Card, the competent State agency specified in Clause 1 of this Article shall consider and issue HC in accordance with the forms specified in Appendix 9 and Appendix 10 issued together with this Circular. In case of refusal, [the competent State agency shall] reply in writing, clearly stating the reasons therefore.

Article 18. Cases where HC is revoked

1. Organizations and individuals applying for HC forged documents.
2. HC is issued for export consignments, the food products of which fail to comply to standards, technical regulations already announced for application (if any).
3. Written Receipt of regulation conformity announcement or Confirmation of announcement on compliance with the food safety regulations for that food is revoked (if applicable).
4. HC is issued not in accordance with the competence.

Article 19. Competence and procedures for revocation of HC

1. State agencies having the competence to issue HC may promulgate a document on revocation of HC and send it to organizations and individuals that have been issued with HC.
2. Within a time-limit of 5 (five) working days from the date of receipt of the document on revocation, organizations and individuals having been issued with HC shall have to submit the issued HC to competent HC-issuing agency.
3. In case of failing to revoke the issued HC, state agency has the competence to issue HC shall have to post the information on its electronic information pages and shall notify the customs body that HC specified in Clause of 1 Article is no longer valid.

Chapter V

RIGHTS AND RESPONSIBILITIES OF AGENCIES, ORGANIZATIONS AND INDIVIDUALS

Article 20. Rights and obligations of owners of goods

Owners of goods have the following rights and obligations:

1. Proposing to apply simplified method of inspection for import goods in one of the cases specified in Points a, b and c, Clause 2, Article 6 of this Circular.
2. Proposing the agency, which inspects his or her goods, to reconsider inspection results or proposing the Department of Food Safety – the Ministry of Health to appoint a verifying and

testing establishment to conduct re-inspection [of goods] within 5 (five) working days, from the time of receipt of result notice confirming that food fails to meet the import requirements.

- a) Requesting initial inspection agency to refund the expenses if the results of re-inspection fails to match the initial inspection results;
 - b) Bearing re-inspection expenses if the re-inspection results match the initial inspection results.
3. Proposing in writing one of the handling measures for consignment or goods failing to meet the import requirements that inspection agency provides in notice stipulated in Appendix 3 issued in conjunction with this Circular.
 4. Ensuring status quo of customs body's sealing in place, where consignment is kept, for the inspection agency to take samples at the right location having been registered by the owner of goods, after the procedure for customs declaration for consignment has been conducted.
 5. Implementing competent State management agency's decisions on handling if the consignment or goods fails to meet the requirements.

Article 21. Rights and responsibilities of inspection agencies

1. Entering and coming out the place of storage, preservation and means of transport of food for inspecting and sampling. The sampling must comply with the provisions of Circular 14/2011/TT-BYT dated April 1, 2011 of the Minister of Health providing general guidelines for sampling food for food quality, hygiene and safety inspection.
2. Conducting inspection of food products in accordance with method and procedure stipulated in this Circular.
3. Collecting inspection fees and charges in accordance with the law.
4. Storing samples in accordance with the time-limit specified in the standard of test methods or similar documents for such foods in order to test again when required. Upon expiry of this time-limit, inspection agency notifies owner of goods to receive the samples or make a minutes of liquidation of food product with expired storage time-limit.
5. Ensuring expertise, accuracy, truthfulness and objectivity when testing and certifying food safety for import consignments.
6. Being subject to guidance, inspection and guidance on the organization and business operation of the Department of Food Safety – the Ministry of Health in the field of inspection of imported food under the management scope of the Ministry of Health.
7. Receiving and resolving complaints from owners of goods in respect to its inspection. Inspection agencies are responsible for any errors during the inspection process. If causing damages to owner of goods, inspection agency must refund all testing charges, inspection fee, and at the same time must pay damages to owners of goods in accordance with the law.

8. Keeping inspection dossiers as archives in accordance with the law and presenting such dossiers when competent agency requests.
9. Monthly reporting, after 10 (ten) days from the end of each month, to the Department of Food Safety – the Ministry of Health in accordance with the form specified in Appendix 11 issued in conjunction with this Circular.
10. Within time-limit of three (3) consecutive months, if inspection agency fails to conduct monthly report, the Ministry of Health shall provisionally suspend duties and powers of food safety inspection under the management scope of the Ministry of Health for time-limit of 3 (three) months.

Article 22. The powers and responsibilities of the Department of Food Safety – the Ministry of Health

1. Notifying on electronic portal of the Department of Food Safety and sending information to the customs body, inspection agency when there is warning or end of warning of the Ministry of Health, the competent authority in foreign country or the manufacturer in case that safety of suspected food is not ensured.
2. Issuing notice of approval or disapproval to the traders being responsibilities for quality of goods as declared in dossiers of conformity announcement on the application of simplified method of inspection in accordance with the specified time.
3. Deciding and guiding handling measures for import consignments failing to meet the food safety requirements.
4. Addressing compliance of owners of goods, inspection agencies and proposing competent agencies to handle violations of the law.
5. Annually, the Department of Food Safety shall collate and report to the Minister of Health of the issues related to State inspection of imported food, while proposing appropriate management measures for each period.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 23. Implementation effectiveness

1. This Circular takes effect from February 23, 2016.
2. In the case that legal documents referred in this Circular are amended, added or replaced, new legal documents shall prevail.
3. Decision 23/2007/QĐ-BYT of March 29, 2007 of the Minister of Health on promulgating "Regulations on State inspection of quality, hygiene and safety of imported foods" is revoked from the date on which this Circular takes effect.

4. In the course of implementation, if there are any problems, they are requested be reported to the Ministry of Health (the Department for Food Safety) for consideration and resolution./.

Recipients:

- Office of Government (Department of Science Education and Social culture, Official Gazette, E-Portal of the Government);
- Ministry of Justice (*Department of Examination of Legal Normative Documents*);
- The ministries, ministerial-level agencies, agencies under the Government;
- Minister of Health (for report);
- The units of the Ministry of Health;
- People's Committees of centrally-run provinces and cities;
- Health Services of centrally-run provinces and cities;
- Food safety Departments of centrally-run provinces and cities;
- E-portal of MOH;
- Kept as archives: Office, Legal, food safety.

**ON BEHALF OF
MINISTER
DEPUTY MINISTER**

(Signed)

Nguyen Thanh Long