

**MINISTRY OF  
AGRICULTURE AND  
RURAL DEVELOPMENT**

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**THE SOCIALIST REPUBLIC OF VIETNAM  
Independence - Freedom - Happiness**

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*Hanoi, November 12, 2013*

**CIRCULAR**

**ON INSPECTION AND CERTIFICATION OF THE SAFETY OF FISHERY FOOD  
PRODUCTS FOR EXPORT**

*Pursuant to Law No. 05/2007/QH12 on products and goods quality dated November 21, 2007;*

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

*Pursuant to the Government's Decree No. 132/2008/ND-CP dated December 31, 2008 providing detailed regulations on the implementation of some articles of Law on products and goods quality;*

*Pursuant to the Government's Decree No. 38/2012/ND-CP dated April 25, 2012 providing detailed regulations on the implementation of some articles of Law on Food safety;*

*Pursuant to the Government's Decree No. 01/2008/ND-CP dated January 03, 2008 on functions, tasks, power and organizational structure of the Ministry of Agriculture and Rural Development and the Government's Decree No. 75/2009/ND-CP dated September 10, 2009 on amendments to Article 3 of Decree No. 01/2008/ND-CP;*

*According to suggestion of Director of NAFIQAD,*

*The Minister of Agriculture and Rural Development on inspection and certification of the safety of fishery food products for export*

**Chapter 1.**

**GENERAL PROVISIONS**

**Article 1. Scope**

This Circular provides regulations on:

1. Applications and procedures for and power of inspection, issuance and revocation of Certificate of eligibility for food safety (hereafter referred to as certificate of food safety) of fishery food business operators for export (hereafter referred to as "business operators").

2. Applications and procedures for and power of inspection and issuance of certificate of safety of fishery food products for export (hereafter referred to as Certificate) to markets in which the competent authority of import country requests for the inspection of export shipments and issuance of Certificate of the National Argo – Forestry - Fisheries Quality Assurance Department (hereinafter referred to as NAFIQAD).

## **Article 2. Regulated entities**

1. Regulated entities consist of:

a) Fishery food business operators for export;

b) Fishery food products exported to markets in which the competent authority of import country requests for the inspection of the export shipments and issuance of certificate of NAFIQAD;

2. With regard to fishery food products whose quarantine certificates are required as prescribed in applicable regulations, the inspection and certification authority (hereafter referred to as "the inspection authority") prescribed in Article 5 of this Circular shall carry out the inspection, certification of food safety and quarantine concurrently.

3. The following cases shall not be regulated by this Circular:

a) Fishery food business operators for domestic consume.

b) Fishery food products for export that are not used as food.

b) Fishery food products exported to markets in which the competent authority of import country does not request for the inspection of the export shipments and issuance of certificate of NAFIQAD;

## **Article 3. Definitions**

For the purpose of this Circular, the terms below shall be construed as follows:

1. *Independent establishment producing fishery food products* means an establishment having adequate facilities to completely carry out the separate process of production from input of materials to full packing of products; having the separate workforce of quality control with at least 3 employees that control the food safety during the production process and at least 01 (one) employee that has completed a training course of food safety according to the principle of Hazard Analysis and Critical Control Points (hereafter referred to as HACCP) organized by authorities and organizations that are assigned to provide training in food safety according to HACCP principle..

2. *Batch* means a number of products produced from one or more materials having the same origin, in the same technological process and production conditions (conditions for food safety affected by the same elements) within 24 hours in a business operator.

3. *Shipment* means a number of products that are applied for inspection and certification of eligibility for one-off export to an importer in a vehicle.

4. *Group of similar fishery food products* means fishery food products that pose the same level of food safety hazards and are produced in a similar technological process (Some stages can be different but they do not arise food safety hazards) in an establishment.

5. *Production of fishery food products* means the implementation of one, several or all the activities of extraction, preliminary processing, processing, packing and preservation in order to produce fishery food products.

6. *Fishery food product* means a product that can be eaten or drunk raw or after being preliminarily processed, processed or preserved.

7. *Ready-to-eat fishery food product* means a product that can be eaten by human without any special processing.

#### **Article 4. Bases for inspection, assessment and certification**

The bases for inspection, assessment and issuance of certificate of food safety and certificate of fishery food products for export shall comply with regulations in Articles 41 and 42 of Law on food safety, regulations and standards related to fishery food safety of Vietnam and the import country.

#### **Article 5. Authorities that are in charge of inspection and certification**

1. Authorities that are in charge of inspection, assessment and issuance of Certificate of food safety include: NAFIQAD, NAFIQAD CRA (Central Region Authority) and NAFIQAD SRA (South Region Authority).

2. Authorities that are in charge of inspection and issuance of certificate of fishery food products for export include units affiliated to NAFIQAD whose eligibility for inspection and issuance of certificate are evaluated and agreed by the competent authority of the import country.

#### **Article 6. Requirements for inspectors and heads of inspectorates**

1. An inspector shall satisfy the following requirements:

a) An inspector is honest, objective and not related to economic benefits of organizations, individuals exporting shipments (hereafter referred to as the owner) or the head of the inspected business operator.

b) The inspector has a suitable professional knowledge and has been issued with a certificate of completion of training course of inspection and certification of fishery food safety by NAFIQAD.

c) The inspector is enough healthy to fulfill his/her assigned tasks.

2. Apart from the requirements prescribed in Clause 1 of this Article, a head of an inspectorate shall have at least 05 years' experience of inspection and be assigned to work as the head of the inspectorate by Director of NAFIQAD.

#### **Article 7. Requirements for the equipment used for inspection visit**

1. The equipment used for inspection visit is specialized and distinguishable from other equipment.

2. The equipment is under good operation and maintenance; inspected and/or calibrated in accordance with regulations and be well-cleaned and not become a source of infection.

#### **Article 8. Requirements for testing laboratories**

Laboratories used for analysis and testing of standards in food safety in accordance with regulations of this Circular shall be appointed by the competent authority according to regulations of Ministry of Agriculture and Rural Development.

#### **Article 9. Fees**

Collection of fees of processing of application, inspection of the business operator, taking of samples, testing of food safety standards and issuance of certificates of food safety prescribed in this Circular shall comply with Article 48 of Law on Food safety, applicable regulations of Ministry of Finance and relevant legal documents.

### **Chapter 2.**

#### **INSPECTION AND ISSUANCE OF CERTIFICATES OF FOOD SAFETY**

#### **Article 10. Applications for Certificate of food safety**

1. An application for Certificate of food safety consists of:

a) An application form for Certificate of food safety (using the form prescribed in Appendix I issued together with this Circular)

b) A copy that is notarized or enclosed with the original document of Business Registration Certificate or Investment Certificate;

c) A report on the applicant's establishment condition (facilities and food safety management systems) (using the specimen prescribed in Appendix II issued together with this Circular;

d) A list of the owner of the applicant and its employees directly producing food that have had their health certified by the health facilities of districts or higher;

dd) A list of the owner of the applicant and the employees directly producing food that have been granted certificates of training in food safety by NAFIQAD.

2. If a business operator submits the application for Certificate of food safety after taking actions to correct non-conformance discovered in the previous inspection, the application shall consist of a corrective action report (using the specimen in Appendix III issued together with this Circular.

3. The application shall be sent to the inspection authority directly or by post; via fax, email or online registration (the original document shall be sent subsequently).

#### **Article 11. Processing of the application for Certificate of food safety**

1. Within 03 working days from the day on which the application is received, the inspection authority shall inspect the application's validity and instruct the applicant to make necessary additions.

2. If the application is valid, within 05 working days, the inspection authority shall inform the applicant of the expected time for an inspection visit which shall not exceed 10 working days from the day on which the valid application is received.

#### **Article 12. Forms of inspection**

1. The inspection for issuance of Certificate of food safety shall be applied to following subjects:

a) A business operator that has not been issued with the Certificate of food safety;

b) A business operator whose Certificate of food safety is revoked;

c) A business operator whose certificate only remains for less than 6 months;

d) A business operator that has been issued with the Certificate of food safety but has changed its owner or has its facilities repaired and improved resulting in exposure to a food safety hazard;

Dd) A business operator manufacturing products which are not similar to certified products;

e) A business operator that has been issued with Certificate of food safety but has delayed the periodic inspection for more than 12 months;

g) A business operator that applies for registration of addition to the list of business operators which may process and export products in case of requirement of the import market.

2. Inspection after the certificate of food safety is issued:

a) Periodic inspection is a form of inspection without prior notice aiming to supervise the maintenance of conditions for food safety of business operators that have been issued with Certificate of food safety. The frequency of inspection shall be specified as follows:

- + Class 1 and class 2 business operators: Once a year
- + Class 3 business operators: Twice a year
- + Class 4 business operators: The time for inspection depends on violations of these business operators and is decided by the inspection authority but not exceeding 03 months from the previous inspection.

b) Surprise inspection is a form of inspection without prior notice which applies to business operators that show signs of the violations of food safety prescribed in Point b Clause 3 Article 17, Clause 3 Article 31 and Clause 2 Article 36 of this Circular or is carried out in case of complaints of organizations and individuals.

### **Article 13. Establishment of inspectorates**

1. The head of the inspection authority shall issue a decision on establishment of an inspectorate to inspect the conditions for food safety of a business operator.

2. A decision on establishment of the inspectorate consists of the following contents:

- a) Bases for the inspection;
- b) Names, titles and workplaces of inspectors;
- c) Name, address and code (if any) of the business operator to be inspected;
- d) Scope of, contents of, forms of and time for the inspection;
- dd) Responsibility of the business operator to be inspected and the inspectorate.

3. Decision on establishment of the inspectorate shall be informed at the business operator's premises when the inspection begins.

### **Article 14. Contents of and methods for the inspection**

1. Contents of the inspection include:

- a) Inspection of facilities and the personnel producing fishery food products and managing the fishery food safety (including health certificates, certificate of training in food safety of the owner of business operator and employees directly producing fishery food products);
- b) Inspection of program for management of food safety according to HACCP principle;
- c) Inspection of procedures for product traceability and recall;
- d) Taking of samples for verification of food hygiene control measures during the production process in accordance with Appendix IV issued together with this Circular.

2. Methods for the inspection shall comply with Appendix V issued together with this Circular.

### **Article 15. Inspection record**

1. An inspection record shall contain:

a) Sufficient and accurate results of the inspection (using the specimen in Appendix 5 of this Circular). The result shall be recorded in the inspected place after the inspection finishes;

b) Items that fail to fulfill requirements of food safety and time limit for completion of corrective actions;

c) General conclusion and classification of conditions for food safety of the business operator;

d) Opinions of legal representative of the business operator about results of the inspection and commitments to take action to correct non-conformance (if any);

dd) Signatures of the head of inspectorate, the legal representative of the business operator and fan stamping (If there is no seal at the business operator, these people will sign on each page of the inspection record) and

e) The inspection record shall be made into 02 copies: a copy shall be kept at the inspection authority's office and the other copy shall be kept at the business operator's premises. The quantity of copies may increase if necessary.

2. If the head of the inspected business operator refuses to sign the inspection record, the inspectorate shall write the following sentence "Đại diện Cơ sở được kiểm tra, thẩm định không ký Biên bản" ("the representative of the business operator refuses to sign the record") and specify the reasons. In this case, the inspection record will be still valid if it contains the signatures of all inspectors of the inspectorate.

### **Article 16. Classification of business operators based on conditions for food safety**

1. Classification of the business operator based on conditions for food safety is specified as follows:

a) Class 1: Excellent;

b) Class 2: Very good;

c) Class 3: Passed;

d) Class 4: Failed.

2. Methods for the classification of each type of business operator shall comply with Appendix V issued together with this Circular.

## **Article 17. Processing of the inspection results and issuance of certificates of food safety**

Within 07 working days from the day on which the inspection finishes, the inspection authority shall verify the inspection record and notify the result to the applicant. In particular:

### **1. Inspection visit for issuance of Certificate of food safety:**

a) With regard to a business operator which obtains the “passed” results (classes 1, 2 and 3), the inspection authority shall submit a report on inspection result to NAFIQAD which shall consider issuing the certificate of food safety (using the specimen in Appendix VI issued together with this Circular) and 01 code to the applicant ( in this case, the applicant has fulfilled requirements prescribed in Clause 1 Article 3 of this Circular but has not been granted a code) according to the code system prescribed in Appendix VII issued together with this Circular . Concurrently, the inspection authority shall send a written notification of the inspection result to relevant authorities and business operators to cooperate in management.

### **b) With regard to business operators which obtain “failed” result (Class 4):**

The inspection authority shall notify the inspection result to the applicant and require the applicant to take action to correct non-conformance and submit a report on corrective action result. The inspection authority shall define the time limit for corrective action of non-conformance based on the extent of non-conformable of the applicant but not exceed 03 months from the day on which the reinspection is carried out.

If the result of the reinspection is still failed (class 4), the inspection authority will notify the result and time for the next reinspection to the applicant. Within 07 working days from the day on which the result of reinspection is notified, the inspection authority shall publish the name, address of the business operators and name of their products that do not ensure the conditions for food safety on media.

If the result of the next inspection is still failed (class 4), the inspection authority will suggest the competent authority to take actions in accordance with applicable regulations.

### **2. Periodic and surprise inspection:**

a) The inspection authority shall notify the “passed” applicant (class 1, 2 or 3) of the inspection result and frequency of periodic inspection in the next time.

b) A failed business operator (class 4) shall be dealt with as prescribed in Point b Clause 1 of this Article.

### **3. With regard to taking of samples for verification of food hygiene control measures during the production process.**

a) Within 01 working day from the day on which it is concluded that the testing result fails to satisfy regulations, the inspection authority shall send the applicant a request for correction to



non-conformance. The inspection authority shall define the time limit for corrective action of non-conformance and taking of sample for re-testing based on extent of non-conformance of the applicant.

b) If the result of re-testing fails to satisfy regulations, the inspection authority will decide to inspect surprisingly the conditions for food safety of the applicant.

#### **Article 18. Revocation of certificates of food safety**

1. A business operator will have its certificate of food safety revoked if it falls into cases prescribed in Article 13 of the Government's Decree No. 38/2012/ND-CP dated April 25, 2012 on guidelines for certain articles of Law on food safety.

2. NAFIQAD has the power to revoke certificates of food safety.

#### **Article 19. Reissuance of certificates of food safety**

1. A certificate of food safety may be reissued in the following cases:

a) Certificate is lost;

b) Certificate is damaged;

c) The business operator applies for adjustments to the certificate of food safety (except for cases in which the inspection visit for issuance of Certificate of food safety prescribed in Points d and dd Clause 1 Article 12 of this Circular shall be carried out).

2. Procedures for reissuance of certificates of food safety:

a) The business operator shall make an application and sent it to NAFIQAD and explain for reissuance of Certificate of food safety (using the specimen in Appendix VII issued together with this Circular);.

b) Quantity of applications: 01 application form for reissuance of Certificate of food safety;

c) The application can be submitted directly or by post, via fax or email (the original document shall be sent subsequently);

d) Within 03 working days from the day on which the application form is received, NAFIQAD shall consider reissuing of the Certificate to the applicant.

3. The validity of certificate of food safety which is reissued shall last for the same period with the original Certificate.

#### **Chapter 3.**

# **INSPECTION AND ISSUANCE OF CERTIFICATES OF FISHERY FOOD PRODUCTS FOR EXPORT**

## **SECTION 1. PROGRAM FOR CERTIFICATION OF FISHERY FOOD PRODUCTS FOR EXPORT**

### **Article 20. Scope and participants of the program**

1. The program includes activities of inspection and issuance of certificate of fishery food products exported to markets in which the competent authority of the import country requires NAFIQAD to inspect and issue the certificate to shipments according to the list of markets prescribed in Appendix IX of this Circular.
2. If the import market imposes new requirements, NAFIQAD will notify these requirements to relevant organizations and individuals, simultaneously report them to Department of Agriculture and Rural Development which shall update the list of markets within 03 months from the day on which the written requirements of the competent authority of the import country is received.
3. To take part in the Program, a business operator shall:
  - a) Obtain a Certificate of food safety in accordance with regulations of this Circular;
  - b) Comply with regulations and standards related to conditions for food safety of the import country.

### **Article 21. The list of business operators taking part in the Program**

1. According to regulations of an import market or an agreement with the competent authority of the import country, NAFIQAD shall make and update a list of business operators taking part in the Program in each import market if business operators fulfill criteria prescribed in Clause 3 Article 20 of this Circular.
2. A business operator will be taken out of the Program if:
  - a) The business operator sends a written request for withdrawing its name from the list of business operators taking part in the Program in each import market.
  - b) The business operator has its certificate of food safety revoked in accordance with regulations in Article 18 of this Circular.

### **Article 22. The priority list**

1. The priority list is a list of business operators whose conditions for food safety have been well-maintained (In this case, the criteria prescribed in Clause 2 of this Article is fulfilled) and may be issued with certificate of fishery food products for export in accordance with regulations of Section 2 of this Circular.

2. NAFIQAD shall make the priority list of business operators that fulfill the following criteria until the time of consideration:

- a) The business operator is defined in the list of business operator taking part in the program for certification of fishery food products for export in each import market;
- b) The business operator is classified in class 1 or 2 of conditions for food safety within 12 months
- c) The business operator exports products without any violations of food safety within 03 consecutive days.

3. A business operator will be taken out of the priority list if:

- a) The business operator does not maintain its conditions for food safety and is classified in class 3 or 4;
- b) The business operator has its certificate of food safety revoked in accordance with regulations in Article 26 of this Circular.

4. The business operator's name may be inserted again to the priority list after fulfilling the conditions specified in Clause 2 of this Article.

5. With regard to class 1 business operators in the priority list, samples for verification shall be taken according to special procedures prescribed in Appendix X issued together with this Circular if:

- a) There is no product detected in violations of food safety by the competent authority of Vietnam or the import market within 12 months from the day on which the business operator's name is defined in the priority list to the time of consideration;
- b) There is a cooperating contract for management of food safety and traceability of business operators in a chain. All business operators of a chain are issued with certificates of food safety or certificates of Vietnamese Good Agricultural Practice (VietGAP) or equivalent certificates.

6. To be applied special regimes on taking samples for verification, a class 1 business operator in the priority list shall send an application form to the inspection authority enclosed with notarized copies or copies enclosed with original documents of contracts and certificates prescribed in Point b Clause 5 of this Article. Within 5 working days from the day on which the sufficient application is received, the inspection authority shall notify the inspection result to the applicant.

### **Article 23. Forms of certifications of export shipments**

1. With regard to a shipments produced by the business operators whose name are defined in the priority list:

a) The inspection authority shall issue the certificate based on the verification of food safety control measures as prescribed in Section 2 of this Chapter.

b) If the applicant makes a request for the inspection and taking of samples for testing of each shipment, the inspection authority shall comply with procedure prescribed in Section 3 of this Chapter.

2. With regard to export shipment produced by a business operator whose name is not defined in the priority list, the inspection authority shall issue the certificate based on results of the inspection and taking of samples for testing of each shipment in accordance with Section 3 of this Chapter.

#### **Article 24. Requirements for export products**

1. The products are produced by a business operator defined in the list of business operators taking part in the program for certification of fishery food products for export in each import market;

2. The products satisfy regulations on labeling of products with compulsory information in accordance with regulations of the import market, shall not mislead the product's nature and commit the violations of Vietnam law.

3. With regard to products that are processed in different business operators:

a) The business operator carrying out the last stage of production (packaging and labeling) is defined in the list of business operators taking part in the program for certification of products for export in each import market;

b) The business operator carrying out the previous stages of production satisfies regulations on conditions for food safety of Vietnam and the corresponding import market;

c) Business operators that preliminarily process and process the shipment shall make a commitment on joint responsibility for implementation of measures for taking action against violations of the inspection authority if the shipment is warned by the competent authority of the import country or detected to commit violations on food safety by the inspection authority;

d) Business operators that produce the shipment shall keep adequate dossier of production, control the food safety during the stages of production carried out by them and ensure the product traceability.

#### **Article 25. Regulations on certificates**

1. Each shipment is granted a certificate.

2. The certificate is only valid if the shipment is transported and preserved in conditions that do not change the certified contents of food safety.

3. The content and form of the certificate shall fulfill the requirements of the corresponding import market and be numbered in accordance with regulations in Appendix XI issued together with this Circular.

#### **Article 26. Business operators failing to obtain certificates of their export shipments**

1. The inspection authority shall not issue a certificate for an export shipment produced by one of the following business operators:

- a) A business operator that is requested to suspend importing by the competent authority of the import country;
- b) A business operator have its certificate revoked according to regulations in Article 18 of this Circular;
- c) A business operator that is suspended to manufacture products according to regulations in Articles 30 and 33 of Law on products and goods quality or other the Government's regulations on dealing with administrative violations of food safety.

2. The business operator specified in Clause 1 of this Article will obtain the Certificate if the following conditions are fulfilled:

- a) The business operator has taken actions to correct non-conformance according to the request of the inspection authority and the corrective action's effectiveness is verified and confirmed by the inspection authority.
- b) Besides, the business operator specified in Point a Clause 1 of this Article shall be informed by NAFIQAD and have its suspension of import eliminated by the competent authority of the import country.

### **SECTION 2: ISSUANCE OF THE CERTIFICATES OF SHIPMENTS PRODUCED BY THE BUSINESS OPERATOR WHOSE NAMES ARE DEFINED IN THE PRIORITY LIST**

#### **Article 27. Verification of food safety control measures**

1. Principle of verification:

- a) Standard of verification shall comply with regulations in the List of food safety standards and the permitted limit required by the corresponding import market that are submitted to Ministry of Agriculture and Rural Development to request their publishing, adjustment and regular update by NAFIQAD.
- b) Frequency of taking samples for verification is specified as follow:
  - + Special regime: every two months;

- + Class 1: once a month;
- + Class 2: twice a month.

c) The rate of taking of samples for verification shall be identified according to classification of conditions for food safety; history of ensuring food safety; risks of products; scale and power or production of the business operator according to regulations on Appendix X.

According to the analysis of achieved results, NAFIQAD regularly requests Ministry of Agriculture and Rural Development to consider adjusting and updating the contents prescribed in regulations in Appendix X.

d) Position of taking of samples: At the warehouses

2. The plan for verification:

a) The inspection authority shall make an agreement with the business operator on the time for taking of samples, types of sample, quantity of samples for each verification time and ensure that each type of product for export of the business operator shall be verified at least once a year.

b) If there is any change, the business operator shall send writing to the inspection authority within 03 working days before the time of change of time for taking of samples that has been agreed before.

3. Processing of results of analysis of samples:

a) Within 01 working day from the day on which it is concluded that the testing result is unconfirmable with regulations of the import country, the inspection authority shall send the business operator a request for taking corrective action for the exported shipment. The inspection authority shall verify the results of corrective action taken by the business operator and add a verification of violations of committed products in the next plan for taking of samples for verification;

b) In the next verification, if the testing result continues to be unconfirmable with regulations of the import country, the inspection authority shall request the business operator to take corrective action for the exported shipment, simultaneously take samples for verification of food safety standards of violated products of each shipment until there are 5 consecutive shipments fulfilling the requirements.

## **Article 28. Application for and issuance of certificates**

1. The application for the certificate:

a) Within 02 working days from the day on which the shipment is exported, the owner shall send an application form for the certificate using the form in Appendix XII issued together with this Circular.

b) The owner shall submit an application to the inspection authority directly or by post, via fax or email (the original document shall be sent subsequently) or online registration.

c) If the owner and the producer of the shipment are not the same, a notarized copy or a copy enclosed with the original file of sales contract or authorization document related to the shipment which contains the commitment of the owner and the producer on joint responsibility if the shipment is warned by the competent authority shall be submitted together with the application.

2. Issuance of the certificate:

Within 01 working day from the day on which the sufficient information is received, the inspection authority shall process the application and review the verification of food safety control measures prescribed in Article 27 of this Circular and issue Certificate to the shipment using a specimen that is conformable with regulations of the import market or send a writing reply enclosed with the explanation if the shipment is not issued with certificate.

### **SECTION 3: ISSUANCE OF THE CERTIFICATES OF SHIPMENTS PRODUCED BY THE BUSINESS OPERATORS WHOSE NAMES ARE NOT DEFINED IN THE PRIORITY LIST**

#### **Article 29. Application for inspection**

1. An application for inspection of 01 shipment consists of:

a) An application form for inspection of the shipment using the specimen in Appendix XIII issued together with this Circular;

b) A detailed declaration of the shipment using the specimen in Appendix XIV issued together with this Circular.

2. Time limit for submission of the application:

a) With regard to fresh and frozen fishery food products: Within 03 (three) working days before the expected date of export.

b) With regard to the other cases: Within 09 (three) working days before the expected date of export.

3. The owner shall submit an application to the inspection authority directly or by post, via fax or email or online registration (the applicant shall send an application form for inspection to the inspection authority subsequently).

4. If the owner and the producer of the shipment are not the same, a notarized copy or a copy enclosed with the original file of sales contract or authorization document related to the shipment which contains the commitment of the owner and the producer on joint responsibility if the shipment is warned by the competent authority shall be submitted together with the application.

5. Processing of the application: Within 01 working days from the day on which the sufficient application is received in accordance with regulations in Clause 1 of this Article, the inspection authority shall assess the application validity and instruct the applicant to submit additional documents (if any).

### **Article 30. Inspection and taking of samples for testing**

1. The inspection authority shall assign inspectors to inspect and take samples of the shipment within 02 working days from the day suggested by the owner or the day agreed by the owner and the inspection authority.

2. Contents of and procedures for inspection of the shipment shall comply with regulations in Appendix XV issued together with this Circular.

### **Article 31. Processing of the testing results that do not satisfy regulations on food safety**

1. If the inspection result of the shipment fails to satisfy regulations on dossier of production or objective/subjective standard, within 01 working day from the day on which the inspection finishes, the inspection authority will send a notification of failed shipment (using the specimen prescribed in Appendix XVI issued together with this Circular.

2. If the testing result of the shipment fails to satisfy regulations on food safety:

a) The inspection authority shall send the testing result to the applicant within 01 working day from the day on which the sufficient testing result is given;

b) Within 03 working days from the day on which the testing result is sent to the applicant, if the applicant makes a written comment on this result, the inspection authority shall deal with this case as prescribed in Point 2 Section 8 of Appendix XV issued together with this Circular.

c) Within 03 working days from the day on which the testing result is sent to the applicant, if the applicant has no written comment on this result, the inspection authority will send a notification of failed shipment (using the specimen prescribed in Appendix XVI issued together with this Circular) enclosed with the explanation and request the applicant to find out the reasons take action to correct non-conformance of the shipment and send an explanation to the inspection authority.

3. Within 03 working days from the day on which the explanation report of the applicant is received, the inspection authority shall verify contents of the report and send a written notification of results of verification to the applicant. If a surprise inspection is necessary for the verification, the inspection authority will carry out the inspection and notify results to the applicant within 07 working days from the day on which the explanation report of the applicant is received

### **Article 32. Issuance of certificates:**



1. Within 02 working days from the day on which the shipment is exported, the applicant shall provide in writing sufficient information defined in the specimen of certificate according to the requirement of the competent authority of the import country to the inspection authority which shall consider issuing the certificate. Within 01 working day from the day on which the sufficient information is received, the inspection authority shall issue the certificate to the shipment using the form of corresponding import market if the testing results the shipment fulfill requirements.
2. After 90 working days from the day on which the inspection is carried out, if the applicant fails to provide enough information to the inspection authority, the applicant shall apply for the inspection as prescribed in Article 29 of this Circular.

#### **SECTION 4. POST CERTIFICATION PROCESSING**

##### **Article 33. Reissuance of certificates:**

1. If the Certificate is lost or damaged, the owner shall submit an application form for reissuance of certificate that specifies the explanation to the inspection authority directly or by post, via fax or email (the original document shall be submitted subsequently).
2. The inspection authority shall consider issuing the certificate after 01 working day from the day on which the application form of the applicant is received and fulfill the following requirements:
  - a) The contents of the reissued certificate are the same as those of the original certificate of the shipment;
  - b) The reissued certificate is numbered according to regulations in Appendix XI issued together with this Circular and has a note: "*Chứng thư này thay thế cho Chứng thư số ..., cấp ngày ...*" ("*This certificate replaces the Certificate No. [ ] issued on [ ]*")

##### **Article 34. Issuance of duplicate certificates**

If the applicant applies for a duplicate certificate, the inspection authority will consider issuing the forwarded certificate according to the following requirements:

1. The duplicate certificate shall be issued within the day on which the first certificate is issued;;
2. The contents of the duplicate certificate shall be the same as those of the original certificate.

##### **Article 35. Supervision of the shipment post certification**

1. On the yearly basis or unexpectedly, in case of requirement, the inspection authority shall work with the customs authority to verify the information, condition and the homogeneity of the shipment before and after it is certified and carry out inspection visit at the place where the shipment is stored while customs procedures for export are carried out if necessary.

2. If there is any violation, the inspection authority will consider making a record and sending a written annulment of issued Certificate to relevant people; simultaneously request the customs authority to take actions against these violations. According to the extent of violations committed by the owner, the inspection authority shall send the competent authority a written request for penalties for administrative violations in accordance with applicable regulations of law.

#### **Article 36. Dealing with the cases in which the shipment is warned**

1. Within 03 working days from the day on which the official warning information is sent by the competent authority of the import country, the inspection authority shall request the owner to:

a) Conduct traceability of the shipment, investigate the reasons for shipment's failures to ensure the food safety; set up and take the corrective action and submit a report to the inspection authority using the specimen in Appendix XVII issued together with this Circular;

b) Suspend the export to the corresponding import countries in case of request of the competent authority of the import country;

c) Comply with the regime of taking of samples for testing of violating food safety standards of each shipment of the violating product that is produced by the applicant until the inspection authority accepts in writing the report on results of investigation and corrective action of the applicant;

2. Within 03 working days from the day on which the report on investigation of reasons and corrective action sent by the applicant, the inspection authority shall verify the contents of the report and send a written notification of result of verification to the applicant. If a surprise inspection is necessary for the verification, the inspection authority will carry out the inspection and notify results to the applicant within 07 working days from the day on which the report of the applicant is received.

#### **Chapter 4.**

#### **RESPONSIBILITY AND ENTITLEMENT OR POWER OF RELEVANT PARTIES**

#### **Article 37. Responsibility and entitlement of business operators obtaining Certificates of food safety**

1. A business operator obtaining the certificate of food safety shall:

a) Send an application to the inspection authority in accordance with regulations of this Circular in order to be inspected and issued with the certificate and implement the plan on verification and inspection of the inspection authority;

b) Assign a person to work with the inspectorate on behalf of the applicant;

- c) Provide sufficient information, relevant documents and samples of products serving the verification of food hygiene control measures during the production process according to the request of the inspectorate and take responsibility for provided information and documents;
- d) Maintain regularly conditions for food safety that have been certified;
- dd) Take action to correct non-conformance specified in the inspection record and notifications of the inspection authority within the required period;
- e) Sign in the inspection record.
- g) Submit fees of inspection and issuance of certificate in accordance with regulation in Article 9 of this Circular.

2. The business operator that is issued with certificate of food safety may:

- a) Agree or disagree (enclosed with explanation) on the result of inspection specified in the inspection record;
- b) Make a complaint about the conclusion of inspection;
- c) Promptly report to the head of the inspection authority on mistakes of the inspectorate or inspectors.

### **Article 38. Responsibility and entitlement of owners or producers of the shipments**

1. An owner or a producer of the shipment shall:

- a) Send an application to the inspection authority in accordance with regulations of this Circular in order to be have the shipment inspected and issued with the certificate;
- b) Comply with regulations on inspection, taking of samples for verification of food safety control measures, taking of samples for testing of the shipment prescribed in this Circular and provide sufficient relevant documents according to the request of the inspector;
- c) Not change characteristics of the product, shipment's composition and information of the label in comparison with contents that have been registered, inspected and issued with the certificate of the shipment;
- d) Take the initiative in reporting to the inspection authority when the shipment is returned or destroyed in the import country and implement the suitable measures for dealing with the shipment which is returned or recalled by the inspection authority;
- dd) Ensure the plan for taking of samples for verification of food safety control measures that has been agreed with the inspection authority;

e) Submit fees of inspection and issuance of certificate in accordance with regulations in Article 9 of this Circular.

2. The owner or producer of the shipment may:

a) Request the inspection authority to provide regulations related to inspection and issuance of the Certificate of the shipment in accordance with regulations of this Circular;

b) Request the inspection authority to carry out inspection and take samples for testing of the shipment which can be used as the basic for issuance of the certificate if the name of producer of the shipment is defined in the priority list;

c) Reserve the opinions that are different from the result of the inspection;

d) Make a complaint about or denounce all violations committed by inspectors, the inspection authority, testing laboratories and relevant individuals or organizations in accordance with regulations of Law on Complaints, Law on Denunciations and their guiding documents.

### **Article 39. Responsibility and power of inspectors**

1. During the process of performance of assigned tasks, an inspector shall:

a) Comply with regulations on contents of, procedures, measures and bases for inspection and certification of food safety of the applicant; inspect and take samples for testing of the shipment in accordance with regulations of this Circular;

b) Ensure the security of information related to production and business of the business operator and the owners according to the regulations of law; ensure the accuracy, transparency, honesty, objectivity and non-discrimination during the process of performance of the tasks;

c) Not make a request for contents outside the regulations to create difficulties for the business operator or the owner;

d) Comply with the assignment of the head of inspectorate and the head of the inspection authority; be accountable to the head of inspection authority and take the legal responsibility for the result of inspection.

2. Within the scope of assignment, the inspector has the power to:

a) Request the business operator and the owner to provide documents and specimens (if any) serving the inspection;

b) Come in and out places of production and preservation and warehouse; process the application, take samples, take photos and record necessary information to serve the inspection;

c) Make a record and propose measures for taking action against violations of regulations on food safety;

d) reserve his/her personal opinions and report to the inspection authority if he/she does not agree about the conclusion of the head of inspectorate prescribed in Point b, Clause 2 Article 40 of this Circular;

dd) refuse to carry out the inspection of the business operator fails to fulfill the responsibly as prescribed in Points b and c Clause 1 Article 38 of this Circular.

#### **Article 40. Responsibility and power of the head of an inspectorate.**

1. During the process of performance of assigned tasks, apart from the responsibility of an inspector prescribed in Clause 1 Article 39 of this Circular, the head of an inspectorate shall:

a) Direct and assign tasks to inspectors of the inspectorate in order to implement sufficient contents if the decision on establishment of the inspectorate;

b) Opinions and results of the inspection given by inspectors of the inspectorate and come to the final conclusion and specify it in the inspection record;

c) Review and sign in the inspection record, report on the result of inspection and be accountable to the head of the inspection authority and take legal responsibility for the result given by the inspectorate.

2. During the process of performance of assigned tasks, apart from the power of an inspector prescribed in Clause 2 Article 39 of this Circular, the head of an inspectorate has the power to

a) Suggest the head of inspection authority to issue a decision on change of the inspectorate's members in order to implement sufficient contents of the decision on establishment of the inspectorate.

b) Come to the final conclusion of the inspectorate about the result of inspection.

#### **Article 41. Responsibility and power of NAFIQAD**

1. NAFIQAD shall:

a) Organize the processing of the application, inspection of the applicant, issuance of the certificate of food safety and inspection post certification; inspect and issue certificates of shipments in the whole country.

b) Provide a training in profession related to processing of application, inspection visit, issuance of certificate of food safety and inspection post certification, inspection and issuance of certificate of the shipment for inspectors;

c) Keep sufficient documents related to the result of inspection of the applicant, issuance of certificate of food safety and inspection after the certificate of food safety is issued, inspection and issuance of certificate of the shipment of the applicant in accordance with regulations; provide document and submit a sufficient and accurate report on issues related to the inspection and certification of the safety of fishery food products for export to the Department of Agriculture and Rural Development if it is required;

d) Take responsibility for the result of inspection and certification of the safety of fishery food products for export;

dd) Deal with complaints and denunciations of the owner related to the inspection and certification of the safety of fishery food products for export.

e) Ensure the security of information related to business secrets of business operators that are inspected and issued with certificates of food safety;

g) Publish and update the list of business operators taking part in the program for certification of fishery food products in each market and the priority list in accordance with regulations of this Circular;

h) Send the Ministry of Agriculture and Rural Development a request for update of the list of markets in which the competent authority of the import country requests NAFIQAD to inspect and issuance of certificate of the shipment in accordance with regulations of this Circular;

i) Update the list of regulations and standards of Vietnam and the import country related to conditions for food safety and notify the list to business operators, owners and relevant authorities and organizations.

2. NAFIQAD has the power to:

a) Carry out the inspection, issue and revoke certificates of food safety to business operators that have been inspected; take action against the violations prescribed in this Circular within its competence and according to the regulations of law;

b) Inspect and issue certificate of shipments in accordance with regulations of this Circular; refuse inspection and issuance of the certificate if the owner fails to fulfill the responsibility prescribed in Clause 1 Article 38 of this Circular;

c) Request inspected business operators to take action to correct non-conformance in food safety specified in the inspection record; find out the reasons and formulate remedial measures and report the result of corrective action of the business operator owning the shipment that is warned about the violations of food safety by the inspection authority and the competent authority of the import country in according with regulations of this Circular;

d) Notify the elimination from the list of the name of the business operator taking part in the program for certification of fishery food products for export in each import market or suspension

of issuance of certificate of shipment to the applicant that fails to ensure food safety prescribed in Clause 2 Article 21 and Clause 1 Article 26 of this Circular;

dd) Suggest the competent authority to take actions against violations of this Circular committed by organizations and individual in accordance with regulations of law.

#### **Article 42. Responsibility and power of Department of Agriculture and Rural Development of provinces**

Departments of Agriculture and Rural Development of provinces and their affiliated units shall cooperate with the inspection authority in investigating the reasons and taking action to correct non-conformance of facilities providing materials to business operators that commit violations of regulations on and standards in food safety.

#### **Article 43. Reasonability and power of testing laboratories**

1. A testing laboratory shall:

a) Comply with procedures for analysis, ensure functions of equipment used for analysis, and ensure the security of information of the owner and testing result in accordance with regulations of law;

b) Ensure the accuracy, objectivity and honesty of the testing result;

c) Only notify the testing result to the inspection authority within the prescribed period.

d) Take responsibility for the testing result;

dd) take part in test program according to the request of Ministry of Agriculture and Rural Development;

e) Keep documents related to the analysis in accordance with regulations and submit if it is required by the competent authority.

2. The laboratory has the power to:

a) Refuse the samples that fail to meet the technical requirements in accordance with regulations and deny analyzing the samples and standards beyond the certified scope;

b) Be provided with information and facilitated training to enhance the capacity of analysis;

c) Collect fees in accordance with applicable regulations.

#### **Chapter 5.**

#### **IMPLEMENTATION PROVISION**

#### **Article 44. Effect**

1. This Circular comes into force from December 26, 2013.
2. This Circular replaces the Circular No. 55/2011/TT-BNNPTNT of Minister of Agriculture and Rural Development dated August 03, 2011 on inspection and certification of quality and safety of the fishery food products.
3. Clause 3 Article 3 of Circular No. 01/2013/TT-BNNPTNT of Ministry of Agriculture and Rural Development dated January 04, 2013 on amendments to some articles of the Circular No. 14/2011/TT-BNNPTNT dated March 29, 2011 on inspection and analysis of establishments producing and trading agricultural materials and agro-forestry -fishery products shall be annulled. Certain forms that are issued together with Circular No. 53/2011/TT-BNNPTNT dated August 02, 2011 providing amendments to Circular No. 14/2011/TT-BNNPTNT dated March 29, 2011 shall be replaced.
4. A business operator that satisfies regulations in Points a and c Article 22 of this Circular and maintains the conditions for food safety at class A or B within 12 consecutive months before this Circular takes effects shall be considered having its name defined in the priority list.

#### **Article 45. Amendments to this Circular.**

Any problem arising from the implementation of this Circular shall be reported to Minister of Agriculture and Rural Development for consideration.

**P.P. MINISTER  
DEPUTY MINISTER**

**Nguyen Thi Xuan Thu**

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