

CIRCULAR

**PROVIDING FOR INSPECTION AND ADMINISTRATIVE VIOLATION SANCTION
ACTIVITIES OF MARKET MANAGEMENT OFFICES**

Pursuant to the Law on handle administrative violations dated June 20, 2012;

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

Pursuant to the Government's Decree No.10/CP, of January 23, 1995, on the organization, tasks and powers of market management and the Government's Decree No. 27/2008/ND-CP, of March 13, 2008 on amending and supplementing of the Government's Decree No.10/CP, of January 23, 1995, on the organization, tasks and powers of market management;

At the proposal of Director of Market Management Department,

The Minister of Industry and Trade promulgates the Circular providing for inspection and administrative violation sanction activities of market management offices.

Chapter 1

GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Circular provides for the inspection and administrative violation sanction activities of market management offices including:

- a. Objects and content of inspection; forms and basis of inspection; competence to issue decisions on inspection; inspection group; responsibilities of heads of market management agencies competent to issuance of decision on inspection and responsibilities of market management officers of inspection group and participants assisting the inspection group;
- b. Formulation, issuance or approval of inspection plans;
- c. Receipt and handling of information on acts violating law or signs of violating law;
- d. Orders of and procedures for inspection and sanction of administrative violation.

2. Activities of inspection and administrative violation sanction of market management agencies in industrial property field shall comply with laws on industrial property and provisions in this Circular.

Article 2. Subjects of application

1. Agencies, officers in charge of market management.
2. Agencies, organizations, individuals involving the inspection and administrative violation sanction activities of market management offices.

Article 3. Principles of inspection and administrative violation sanction

1. The inspection and administrative violation sanction activities must comply with laws on inspection and administrative violation sanction, and provisions in this Circular.
2. The inspection and administrative violation sanction activities of market management office aim to ensure the compliance of law on trade and industry of organizations and individuals engaged in business activities in market; to detect, prevent and handle timely acts of administrative violation in business activities in market; to contribute in production development, market stabilization, expansion of goods circulation; to protect lawful rights and interests of businesses and consumers.
3. Observance of mission regulations and proper utilization of forms of the minutes and decisions (abbreviated as prints) in accordance with regulation in the inspection and administrative violation sanction activities.
4. The inspection and administrative violation sanction activities must have basis, ensure objectiveness, justice, in accordance with functions, tasks and powers of market management offices and in accordance with law.

Chapter 2

OBJECTS, CONTENTS, FORMS, BASIS, AUTHORITY OF INSPECTION AND INSPECTION GROUP

Article 4. Objects and content of inspection

1. Inspection on compliance of law on trade and industry of organizations and individuals engaged in business activities in the market.
2. Inspection on compliance of law on areas that state management agencies competent to administrative sanction in accordance with law on handling of administrative violations.

Article 5. Forms and basis of inspection

1. Regular inspection according to the inspection plans that are formulated, approved or issued in accordance with provisions in Chapter 3 of this Circular.
2. Ad hoc inspection when having information on acts violating law or signs of violating law or at the request of heads of competent superior state management agencies as prescribed in Chapter 4 of this Circular.

Article 6. Competence to issue decisions on inspection

1. Persons competent to issuance of decision on inspection include Directors of the Market Management Departments, Directors of the Market Management Sub-Departments and chief of Market Management Team (hereinafter abbreviated to heads of Market Management agencies).
2. Persons specified in clause 1 of this Article may delegate to their deputies for implementation of competence to issue decisions on inspection as follows:
 - a. The authorization to issue decisions on inspection is performed regularly or depending on cases;
 - b. The authorization must be presented in writing, in which clearly defining scope, content and time limit of authorization;

- c. Deputies delegated to issue decisions on inspection must be responsible for their decisions on inspection before heads and before law;
- d. The delegated deputies are not entitled to delegate or authorize for anyone.

Article 7. Inspection group

1. Inspection group shall directly implement the inspection activities of market management.
2. An inspection group must have at least 02 officers of market management, of which an officer as a group chief.
3. Officers of market management of an inspection group are required:
 - a. To have certificate of training the market management professional operations as prescribed by the Ministry of Industry and Trade;
 - b. Not being person who is in time of being disciplined, considered for discipline or who is related to letters of complaints, denunciations that are considered, clarified by head of agencies managing him/her.
 - c. To proactively report with the aim to be allowed not participating in the inspection group in case their spouses, children, parents, blood sisters and brothers or parents, blood sisters and brothers of their spouses are objects inspected or keep a management position in organization that is object of inspection.
4. Chief of inspection group, apart from conditions specified in clause 3 of this Article, he/she must have a market inspection card issued in accordance with regulation.

Article 8. Responsibilities of heads of market management agencies competent to issuance of decisions on inspection

1. Appointing an officer of market management or by themselves to directly manage the inspection group for implementation of inspection. Apart from officers of market management, in necessary case, heads may appoint additionally others under their management in order to participate in assistance for the inspection group.
2. Clearly inscribing full names, positions and units of officers who are appointed for inspection or assistance for the inspection group and contents of inspection in the inspection diary book of the market management team in accordance with regulation.
3. Providing directions, managing the inspection activities of the inspection group in accordance with law and effective manner; timely, under their competence, providing directions and handling cases arising during and after ending inspection based on reports, comments of the inspection group.
4. Taking responsibility before head of direct superior agency and before law for all inspection activities according to the issued decisions on inspection.

Article 9. Responsibility of officers of market management of inspection group and of participants as assistants of inspection group

1. Chief of inspection group shall:
 - a. Organize inspection in accordance with content of the inspection decision and plan as prescribed by this Circular;

- b. Take responsibility before head of market management agency who have issue the inspection decision and before law for all inspection activities of the inspection group;
 - c. Assigning specific affair for officers of market management of the inspection group and participants as assistants of the inspection group to implement inspection;
 - d. Exercise powers of market inspector under levels who are on duty in accordance with law;
 - dd. Exercise the reporting regime, ask for direction opinions of head of market management agency who have issued the inspection decision about matters, contents arising beyond their resolving competence when exercising the inspection task;
 - e. After completing inspection, report and propose the handling of inspection result to head of market management who have issued the inspection decision enclosed with dossier of inspected case as prescribed by this Circular.
2. Officers of market management of an inspection group shall:
- a. Exercise the inspection task according to the assignment and management of chief of inspection group;
 - b. Propose to chief of inspection group for implementation of necessary measures to ensure the inspection activities to be effective and in accordance with law;
 - c. Report on results of implementation of the assigned tasks to the chief of inspection group and take responsibility for the accuracy, truthfulness of content of reports and proposals.
3. Participants in the inspection group shall implement affairs according to assignment of the chief of inspection group and not allow directly participating in the inspection activities that are related to professional operations of inspection or handling administrative violations.

Chapter 3

FORMULATION, APPROVAL AND ISSUANCE OF INSPECTION PLANS

Article 10. Inspection plan

1. An inspection plan of market management agencies shall comprise:
- a. Annually inspection plan;
 - b. Inspection plan based on commodities, fields, areas, objects need be inspected (hereinafter abbreviated to special subject inspection plan).
2. Inspection plan specified in clause 1 of this Article must have the following principal contents:
- a. Basis to issue the inspection plan;
 - b. Purposes and requirements of inspection;
 - c. Types, groups of objects, commodities or fields and areas of inspection;
 - c. Contents of inspection;
 - dd. Inspection time;
 - e. Funds, means, conditions to serves inspection;

- g. Organization of the inspection force, including the coordination with other state agencies for inspection, if any;
- h. Assignment of responsibility for organization and implementation of the inspection plan;
- e. The reporting regime.

Article 11. Formulation, approval or issuance of inspection plans of the Market Management Departments

1. Formulation, approval of the annual inspection plan specified in point a clause 1 Article 10 of this Circular shall comply as follows:

a. On the second week of November each year, based on market situation and requirement of market management or directions of heads of competent superior state management agencies, the Market Management Departments shall formulate their inspection plan in next year and submit to the Minister of Industry and Trade for approval before November 30 each year and organizing implementation;

b. The approved inspection plans must be sent to the Inspectorate of the Ministry of Industry and Trade, the Services of Industry and Trade and the Market Management Sub-departments of central-affiliated cities and provinces (hereinafter abbreviated to the provincial Market Management Sub-departments) for information and coordination in mission.

2. Formulation and issuance of the special subject inspection plan specified in point b clause 1 Article 10 of this Circular shall comply as follows:

a. Based on the changes of market arising problems, fields, contents, areas need be concentrated on inspection and prevention or according to directions of heads of competent superior state management agencies, the Market Management Departments shall proactively formulate and issue the special subject inspection plans and organize implementation;

b. The issued special subject inspection plans must be sent to the Minister of Industry and Trade for report and to the provincial Market Management Sub-departments for information and coordination in mission.

3. The inspection plans of Market Management Departments that are formulated, approved and issued as prescribed in this Article shall concentrate on inspection on businesses with big scale or business activities in various localities or key localities, inter-route or inter-region.

Article 12. Formulation, approval or issuance of inspection plans of the Market Management Sub-Departments

1. Formulation, approval of the annual inspection plan specified in point a clause 1 Article 10 of this Circular shall comply as follows:

a. On the first week of December each year, based on market situation and requirement of market management or directions of heads of competent superior state management agencies, the Market Management Sub-Departments shall formulate their inspection plan in next year and submit to the Directors of the provincial Industry and Trade Departments for approval before December 15 each year and organizing implementation;

b. The issued inspection plans must be sent to the attached market management teams for implementation and to the market management Departments for report and monitoring implementation.

2. Formulation and issuance of the special subject inspection plan specified in point b clause 1 Article 10 of this Circular shall comply as follows:

a. Based on the changes of market arising problems, fields, contents, areas need be concentrated on inspection and prevention or according to directions of heads of competent superior state management agencies, the Market Management Sub-Departments shall proactively formulate and issue the special subject inspection plans and organize implementation;

b. The issued special subject inspection plans must be sent to the attached market management teams for implementation and to Directors of the Service of Industry and Trades and the market management Departments for report and monitoring implementation.

Article 13. Formulation, approval of inspection plans of the Market Management teams

1. Within 10 days after receiving the inspection plan of the direct superior market management agencies that are approved or issued according to Articles 11 and 12 of this Circular, the attached market management teams shall, based on the mentioned-above plans:

a. Formulate the inspection plan in areas or fields under their assigned tasks;

b. Submit to heads of direct superior market management agencies for approval of the inspection plan and organizing implementation.

2. The Inspection plan specified in clause 1 of this Article must have the following principal contents:

a. Basis to formulate the inspection plan;

b. Contents of inspection;

c. Name and address of organizations, individuals or business location that are expected for inspection;

dd. Tentative time of inspection;

dd. Assignment of officers who implement inspection;

e. Tentative agencies to coordinate in inspection, if any.

3. Based on the inspection plans that have been formulated and approved as prescribed in clauses 1 and 2 of this Article, chief of market management team shall:

a. Notify the inspection to organizations and individuals that are inspected at least three working days before beginning inspection;

b. Issue the inspection decision to the inspected organizations and individuals;

c. Organize, direct, operate the inspection in accordance with the inspection decision;

d. Report the inspection results to heads of direct superior market management agencies after completing inspection under the plans specified in this Article.

Chapter 4

RECEIPT, HANDLING OF INFORMATION AND FORMULATION OF THE AD HOC INSPECTION PLAN

Article 14. Information on acts violating law or signs of violating law that are basis for ad hoc inspection

1. Information from means of mass media.
2. Information from letters of complaints, denunciations or reports of organizations and individuals.
3. Information from request for handling of administrative violation of organizations and individuals.
4. Information detected by officers managing areas, officers who are assigned task of reconnaissance, monitoring and detecting administrative violations or who are exercising the task of inspection, handling of administrative violations.
5. Information from written directions of head of competent superior state management agency.

Article 15. Receipt and handling of information

1. Officers who collect, receive information of acts violating law or signs of violating law specified in Article 14 of this Circular must report immediately in writing to the head of direct market management agency for handling of information.
2. After receiving information specified in Article 14 of this Circular, head of market management agencies receiving information shall handle as follows:
 - a. Officers who collect, receive information of acts violating law or signs of violating law specified in Article 16 of this Circular must report immediately in writing to the head of direct market management agency for handling of information;
 - b. In case where the information of acts violating law or signs of violating law are not enough basis for inspection, information shall be examined and verified immediately as prescribed in Article 17 of this Circular;

Article 16. Cases of immediate inspection

1. Unless law on industrial property provides otherwise, the immediate inspection shall comply with point a clause 2 article 15 of this Circular shall be performed in the following cases:
 - a. Objects are performing acts of administrative violation or just finished acts and are detected, objects are evading or dispersing material evidences, means of violation and are watched by many people (hereinafter abbreviated to flagrant acts of violating law);
 - b. If the inspection is failed to implement immediately, the offenders shall flee; material evidences, means of administrative violation may be dispersed, destroyed; or in order to timely prevent, restrain consequences caused by acts of violating law (hereinafter abbreviated to emergency cases).
 - c. Written proposal of officers of market management relating to acts of violating law or signs of violating law is enough basis for inspection;
 - d. Based on written inspection directions of head of competent superior state management agency.

2. Head of market management agency who decides inspection or organize and direct inspection is responsible for immediate inspection as prescribed in this Article.

Article 17. Organization for examination and verification of information

1. Heads of market management agencies competent to receipt and handling of information shall:

a. Immediately organize examination and verification of received information as prescribed in point a clause 2 Article 15 of this Circular;

b. Have written directions on contents that need to be examined and verified information and name of officers assigned task of information examination and verification

2. Officers of market management who are assigned task of information examination and verification as prescribed in point b clause 1 of this Article shall:

a. Immediately implement the information examination and verification in accordance with directions of head of superior market management agency assigning task;

b. Report the results of examination and verification in writing as prescribed in clause 3 of this article to head of superior market management agency assigning task to consider, handle result of examination and verification as prescribed in Article 18 of this Circular.

3. Officers of market management who are assigned task of information examination and verification as prescribed in point b clause 2 of this Article shall:

a. Basis to implement the examination and verification;

b. Full name, titles, working unit of persons implementing the examination and verification;

c. Name, address of individuals, organizations or location of examination and verification;

d. Time of examination and verification;

dd. Content and result of examination and verification;

e. Comments and proposals of persons implementing the examination and verification;

d. Full name and signature of reporter

Article 18. Handling of result of information examination and verification

After receiving report of result of information examination and verification from officers of market management, head of market management agencies received report shall consider, assess the result of information examination and verification and handle as follows:

1. In case according to result of examination and verification, there is act of violating law or sign of violating law, the head shall decide inspection under his/her competence or report immediately to head of competent direct superior market management agencies to organize inspection as prescribed in point a clause 2 Article 15 of this Circular;

2. In case according to the result of examination and verification, there is no act of violating law or sign of violating law, the head shall notify in writing to individuals, organizations that send complaints, denunciations or request for handling of administrative violations.

Article 19. Plan of inspection

1. Except cases specified in points a, b clause 1 Article 16 and cases of inspection under plan specified in Chapter III of this Circular, before promulgation of the decision on ad hoc inspection, an inspection plan is required to ensure inspection in accordance with law and in effective manner.

2. Inspection plan as prescribed in clause 1 of this Article must have the following principal contents:

a. Basis for inspection;

b. Name, address of individual, organization or business location of examination and verification;

c. Content and scope of inspection;

d. Assignment of officers in inspection;

dd. Tentative plans and methods to perform inspection;

e. Tentative time of beginning and ending the inspection;

g. Tentative administrative violation and the applied legal document;

h. Tentative cases that may arise and handling measures, if any;

i. Tentative means and conditions serving inspection, if any;

k) Tentative cooperation agencies, if any;

l. Full name and signature of issuer and seal.

3. Heads of market management agencies competent to issuance of inspection decision shall formulate, issue, supervise implementation of the inspection plans as prescribed in this Article.

Article 20. Confidentiality of information

Information, materials, records of cases related to activities of inspection, handling for acts of administrative violations or having signs of administrative violations specified in this Chapter must be kept secret in accordance with regulation and not permitted to reveal for persons who do not have competence or not directly relate to the case.

Chapter V

ORDER OF AND PROCEDURES FOR INSPECTION AND HANDLING OF ADMINISTRATIVE VIOLATION

Article 21. Promulgation of inspection decisions

1. Except case of flagrant violations, all inspection cases must have written decisions of heads of competent market management agencies.

2. Heads of competent market management agencies shall issue the inspection decisions only when:

a. Having basis as prescribed in Article 5 of this Circular;

b. Inspection is proper with the inspection competence, area or field as assigned task.

3. Content of the inspection decision made according to the set form.

4. The inspection content of an inspection decision must:
 - a. Being proper with objects, contents of inspection as prescribed in Article 4 of this Circular;
 - b. Being proper with objects, contents, duration of inspection inscribed in the inspection plans that are formulated, approved or issued as prescribed in Chapter III of this Circular and the inspection is not performed exceeding once in year about the same content to the inspection objects;
 - c. Being proper with objects, contents related to acts or signs of administrative violation that received or result of examination and verification in case of ad hoc inspection as prescribed in Chapter IV of this Circular;
5. An inspection decision shall take effect of the day of its signing.

Article 22. Implementation of the inspection decision

1. A planned inspection decision as specified in Chapter III of this Circular must be performed within 05 working days after the date of its issuance.
2. An ad-hoc inspection decision as specified in Chapter IV of this Circular must be performed as soon as its issuance.
3. When inspection, the chief of inspection group must:
 - a. Producing card of market inspection and announcing the inspection decision to the inspection objects of persons related to the inspected objects;
 - b. Informing objects or persons related to the inspected objects of the market management officers of the inspection group, assistants of the inspection group, coordination agencies and witnesses, if any;
 - c. Requiring the inspected objects or persons related to the inspected objects for complying with the inspection decision of competent persons and working together with the inspection group.
4. The chief of inspection group shall organize and operate inspection in accordance with content of the announced inspection decision. In case arising matters during the inspection falling beyond his/her competence, he/she must immediately report to the head of competent market management agency who issued the inspection decision for timely settlement.
5. When inspection, the chief of inspection group has rights:
 - a. To request the inspected objects or related persons of those objects for supply of documents, audit books, vouchers and explanations in matters relating to the inspection content;
 - b. To examine goods, instruments of production, business; to examine actual conditions of places producing, trading, storing goods related to the inspection content. In case objects or persons related to the inspected objects evade or obstruct the inspection of actual conditions of places producing, trading, storing goods and there are grounds for presuming that at there containing material evidences or means of administrative violation and it is necessary for examination and seizure, he/she has right to propose to the competent persons for issuance for decision on examining places concealing material evidences or means of administrative violation in accordance with law on handling of administrative violations;
 - c. To collect materials, evidences, explanations of the inspected objects or related persons of those objects at the inspection place;

- d. To take sample of goods to invite experts to make testing, assessment as necessary in accordance with law;
- dd. To apply according to his/her competence or propose to competent persons to apply to measures to prevent and ensure handling of administrative violations as necessary in accordance with law on handling of administrative violations
- e. Making minutes as prescribed in article 24 of this Circular after completing the inspection.

6. Duration of direct inspection:

- a. Duration of each direct inspection not exceeding 05 working days and counted from the time of announcement of the inspection decision to the day ending the direct inspection at the inspection place;
- b. If case is complex, duration of direct inspection may be prolonged but not exceeding 10 working days from the time of announcement of the inspection decision; The persons who issued the inspection decision shall decide the prolonging of the direct inspection duration in writing;
- c. Time while objects or persons related to the inspected objects are delaying or evading the inspection shall not counted in the time limit of direct inspection specified in this clause.

Article 23. Handling of the inspection content arising in the inspection

- 1. In case during inspection, detecting the inspected objects have acts of violating law apart from content inscribed in the inspection decision, the inspection group may perform inspection immediately without requesting to the head of competent market management agencies for issuance of decision on inspection supplementing the inspection content for the detected acts of administrative violation.
- 2. In case during inspection, detecting the inspected objects have signs of violating law apart from content of inspection which is considered as necessary for inspecting it to clarify violation, the inspection group must have written request to the head of competent market management agency for issuance of decision on additional inspection for the content that has sign of administrative violation and need be inspected to clarify. Only after having decision on additional inspection for inspection content from the head of competent market management agency, the inspection group may perform inspection for the supplemented inspection content.

Article 24. Making of inspection minutes, administrative violation minutes

- 1. Based on the inspection result, the inspection group shall make inspection minutes, administrative violation minutes right after completing inspection at the inspection place in the same working day, as follows:
 - a. In case all results of inspection contents show that activities are abided in accordance with law, the inspection group shall make inspection minutes recording the inspection results;
 - b. In case all results of inspection contents detect that there are acts of administrative violation or in case of flagrant acts violating law, the inspection group shall make minutes of administrative violation in accordance with law on handling of administrative violation;
 - c. In case results have inspection contents that are abide in accordance with law and have inspection contents that are detected acts of administrative violation, the inspection group shall make inspection minutes recording the inspection result and make minutes of administrative

violation with respect to the detected administrative violations in accordance with law on handling of administrative violation;

d. In case results have inspection contents that are abide in accordance with law and have inspection contents that are detected acts of administrative violation, have inspection contents that are detected signs of administrative violation and need to be examined, verified, clarified, the inspection group shall make inspection minutes recording the inspection result and immediately report in writing to the head of market management agency competent to issuance of inspection decision in order to organize examination, verification in accordance with provisions of this Circular or to apply measures to prevent and ensure the handling of administrative violations in accordance with law on handling of administrative violation;

2. The inspection minutes must be made according to the set form. When making inspection minutes, it is required to have the present of objects or the related persons of the inspected objects. In case objects or the related persons of the inspected objects are absent or deliberately evade, the minutes must be made with the present of witnesses and reason of absent or evasion must be clearly stated in the minutes; in case objects or the related persons of the inspected objects refuse to sign on the inspection minutes, it is required to have the present of witnesses during making minutes and reason of refusal must be clearly stated in the minutes.

3. Contents of inspection minutes:

a. An inspection minutes must state fully, exactly and honestly results of inspection content, opinions of objects or relevant persons of the inspected objects, agencies coordinated in inspection, witnesses if any as prescribed in clause 2 of this Article and comments, assessments, proposals of the inspection group for the inspected case;

b. Signatures of representatives of parties relating to inspection and making minutes. In case a minutes has many pages, copies including Annexes of minutes, the listing table of material evidences, means of violation, it is required to have signatures of these persons on each page, copy of minutes, annex and the listing table enclosed.

4. Minutes of administrative violations are made in accordance with law on handling of administrative violation.

5. Within 01 working day after completing the inspection minutes or minutes of administrative violation as prescribed in this Article. The chief of inspection group must transfer dossier to head of market management agency competent to issuance of inspection decision in order to handle inspection result, except for case specified in clause 6 of this Article.

6. In case where acts of administrative violations that are detected as prescribed in points b and c clause 1 of this Article, belong to the case of sanction without making of minutes of administrative violation, the chief of inspection group shall immediately issue a sanction decision under his/her competence and report the result, enclosed with dossier of inspection and administrative sanction, to the head of market management agency competent to issuance of inspection decision.

Article 25. Handling of inspection result

After receiving the inspection dossier of the inspection group, the head of market management agency competent to issuance of inspection decision must consider and handle the inspection result as follows:

1. If a minutes of administrative violation has been made as prescribed in article 24 of this Circular and in time limit for sanction of administrative violation in accordance with regulation, the head of market management agency competent to issuance of inspection decision must consider to decide sanction for acts of administrative violation under his/her handling competence or to do procedures for submission or transfer of dossier of administrative violation to persons competent to sanction in accordance with law on handling of administrative violations and provisions in this Circular.

2. In case the inspection result detects signs violating law, but not have enough grounds for conclusion on administrative violation, the head shall organize examination, verification, collection and supplementation of documents, evidences of inspection in order to conclude as prescribed in article 26 of this Circular.

Article 26. Examination, verification, collection and supplementation of documents, evidences of inspection

1. At the specific request of inspection, the examination, verification, collection, supplementation of documents, evidences of inspection may be performed by one or many methods as follows:

- a. Inviting the inspected object for working;
- b. Working with the inspected objects when the inspected objects request;
- c. Working with other organizations, individuals related to the inspected case;
- d. Appointing person to verify or suggesting the relevant state management agencies for examination and verification;
- dd. Taking sample of commodities for testing, evaluation;
- e. Asking professional opinions of relevant experts or the specialized state management agencies;
- g. Other methods in accordance with law.

2. Within 02 working days, after completing the examination, verification, collection and supplementation of documents, evidences of inspection as prescribed in clause 1 of this Article, the head of market management agency competent to issuance of inspection decision or acceptance for inspection must consider and handle as follows:

- a. In case there is no act of violating law, the head must notify in writing to the inspected individuals and organizations within 03 working days after the day of having conclusion;
- b. In case there are acts of administrative violations, the head must immediately make minutes of administrative violations in accordance with law on handling of administrative violation and consider to decide sanction for acts of administrative violation under his/her handling competence or do procedures for submission or sending of dossier of administrative violation to the person competent to sanction in accordance with law on handling of administrative violations and provisions in this Circular.

Article 27. Sanction of administrative violation

Competence of, procedures and time limit for sanction of administrative violations, execution of decisions on sanction of administrative violation, handling of material evidences and means of administrative violations and enforcement for implementation of decision on sanction of

administrative violations shall comply with regulation of law on handling of administrative violations.

Article 28. Procedures for transferring case of administrative violation to competent agencies of other sector

1. For case of administrative violation that is detected by a market management agency through inspection or assuming main responsibility for inspection but belong to the sanction competence of administrative violation of other sector, the head of competent market management agency who issued the inspection decision or accepting the case must:

- a. Having written transfer of the case of administrative violation to agency competent to sanction of administrative violation;
- b. Transferring fully dossier of case and the material evidences and means in custody, if any, when transferring the case of administrative violation;
- c. Making a minutes on handing over of dossier and material evidences and means in custody, if any, between the handing party and receiving party.
- d. Continuing preservation of material evidences and means in custody, if any, when transferring the case of administrative violation when the person competent to sanction have request.

2. For case of administrative violation that is detected by a market management agency through inspection or assuming main responsibility for inspection but deem it has signs of crimes, the head of competent market management agency who issued the inspection decision or accepting the case must immediately transfer the case for competent criminal procedure agencies in order to consider criminal prosecution in accordance with law on handling of administrative violations. The transfer of dossier, material evidences and procedures for handing and receiving shall comply with clause 1 of this article.

Article 29. Procedures for internal transfer of administrative violation case of market management agencies

1. The internal transfer of administrative violation case that falls beyond the competence of administrative violation sanction of market management agencies shall comply with clause 2 of this Article.

2. The competent person who is accepting the administrative violation case must:

- a. Immediately having written report on transfer of the administrative violation case to the person competent to sanction;
- b. Handing over fully dossier of the administrative violation case and making a minutes of handing and receiving dossier between the handing party and the receiving party;
- c. Continuing preservation of material evidences and means in custody, if any, when transferring the case of administrative violation when the person competent to sanction has request.

3. Within 03 working days after receiving dossier of administrative violation case, the head of direct superior market management agency competent to sanction and receiving dossier shall consider and decide sanction of administration violation under his/her competence or submit to competent authorities for sanction of administration violation in time limit prescribed by law on handling of administration violation.

Article 30. Procedures for submission of administrative violation case

1. Heads of Market Management Teams or directors of the provincial Market Management Sub-Department must submit to the President of the People's Committee at competent level for administrative violation sanction in the following case:

- a. The case has many types of administrative violation in various state management fields, of which have administrative violations that not fall in the competence to sanction administrative violation of market management agencies;
- b. The administrative violation case falls beyond the competence to sanction administrative violation of directors of the provincial Sub-departments of market management.

The administrative violation case falls beyond the competence to administrative sanction of the head of market management team.

2. Division or separation of an administrative violation case with the aim to perform administrative sanction for many times in order to be suitable with competence is prohibited except for case of having acts of administrative violation that must transfer to other competent agencies.

Article 31. Procedures for receipt, acceptance for settlement of administrative violation cases that are transferred to the market management agencies by other state agencies

1. Receipt, acceptance for settlement of administrative violation cases that are transferred to the market management agencies by other state agencies are implemented as follows:

- a. It is required to have written transfer of the administrative violation case that is made by competent person of the transferring agency;
- b. Receiving and accepting the transferred administrative violation cases only when deeming that such cases are suitable with functions, tasks, powers of market management agencies and sanction competence of their level;
- c. Doing procedures for receipt with the handing party as prescribed in points b and c clause 1 Article 28 of this Circular.

2. In time limit provided by law on handling of administrative violations, the heads of market management agencies receiving transfer shall consider, decide the sanction of administrative violation under their competence or submit to competent authorities for sanction of administrative violations as prescribed in Articles 29 and 30 of this Circular.

Article 32. Management and storage of dossiers of inspection and handling of administrative violation cases

1. Dossiers of inspection and handling of administrative violation cases include documents related to the inspection and handling of administrative violation.
2. When completing the inspection and handling of administrative violation, the head of market management agency accepting the case shall make dossier of inspection and handling of administrative violation case.
3. Dossier of inspection and handling of administrative violation case must have the enumeration table of documents and be marked the ordered number of record in accordance with law on handling of administrative violation.

4. Dossiers of inspection and handling of administrative violation cases shall be stored in accordance with provisions as follows:
 - a. The authority level issuing decision on sanction of administrative violation to end case must store dossier of case at its level;
 - b. If the provincial People's Committees are agencies issuing decision on administrative violation sanction, the Sub-departments of market management shall store dossier of case;
 - c. If the district-level People's Committees are agencies issuing decision on administrative violation sanction, the market management team in such locality shall store dossier of case.
5. Dossiers of inspection and handling of administrative violation cases must be preserved, stored and the documents having no value for use must be destroyed in accordance with law on archival.

Chapter 6

APPLYING MEASURES TO PREVENT AND ENSURE THE HANDLING OF ADMINISTRATIVE VIOLATIONS

Article 33. General provisions on applying measures to prevent and ensure the handling of administrative violations

1. In the course of inspection and handling of administrative violations, persons of market management agencies have competence to apply measures to prevent and ensure the handling of administrative violations in accordance with law on handling of administrative violations.
2. Competence of and procedures for applying measures to prevent and ensure the handling of administrative violations shall comply with law on handling of administrative violations.
3. When competent persons of market management agencies decide on applying measures to prevent and ensure the handling of administrative violations, they are responsible for:
 - a. Ensuring that application of measures to prevent and ensure the handling of administrative violations are grounded in accordance with law on handling of administrative violations.
 - b. Organizing, directing, implementing application of preventive measures in compliance with procedures prescribed by law on handling of administrative violations.

Article 34. Issuing decision on body search under administrative procedures, search of transport means, items under administrative procedures and search of place hiding exhibits of administrative violations

1. Except for case that needs to search immediately in accordance with law on handling administrative violations, all cases of body search under administrative procedures, search of transport means, items under administrative procedures and search of places hiding exhibits of administrative violations (hereinafter abbreviated to search) must have written decision on search of competent person.
2. Competent persons of market management agencies shall issue decision on search when:
 - a. Having information on acts of violating law or signs of violating law that are received and handled, examining and verifying information, handling of result of examining and verifying information, confidentiality of information are implemented similar to provisions in Articles 14, 15, 16, 17, 18 and 20 or in cases specified in points b, dd, clause 5 Article 22 of this Circular;

- b. It is proper with the inspection competence, locality or field which belongs to their assigned tasks;
- c. Having plan to search as prescribed in Article 35 of this Circular in order to ensure that the search is proper with law and successful.

Article 35. Plan of organizing search

1. Except case must immediately search in accordance with law on handling of administrative violations, persons of market management agencies competent to issuance of search decision shall formulate, issue and direct implementation of plan on search as specified in this Article.
2. Plan on organizing search must have the following principal contents:
 - a. Grounds of search;
 - b. Objects of search or places of search;
 - c. Reason of search;
 - d. Scope of search;
 - dd. Assignment of officers performing search;
 - e. Tentative methods, ways to perform search;
 - d. Tentative duration of beginning and ending search;
 - h. Tentative circumstances and handling measures;
 - i. Tentative administrative violations and legal documents for application;
 - k. Tentative means and conditions in serve for search, if any;
 - l. Tentative coordinating agencies, if any.
 - m. Full name, signature of issuer and seal.

Article 36. Orders of and procedures for implementation of decision on search and handling of search result

Orders of and procedures for implementation of decision on search; handling of contents arising in the course of search; making minutes of search; handling of search results; verifying and supplementing documents, evidences; handling of administrative violations; transferring, receiving, submitting dossier of case and managing storage of dossier shall be implemented similar to provisions from article 22 to article 32 of this Circular.

Chapter 7

IMPLEMENTATION PROVISIONS

Article 37. Implementation responsibility

1. The Director of Market Management Department shall:
 - a. Organize inspection and sanction of administrative violations of the Market management Department as prescribed by law and this Circular;

b. Provide directions, monitor, urge, guide, and examine the forces of local market management agencies in inspection and sanction of administrative violations as prescribed by law and this Circular;

c. Implement the reporting regime on situation, result of inspection and handling of administrative violations of the market management Department and market management forces and send reports to the Minister of Industry and Trade in accordance with regulation;

d. Propose with the Minister of Industry and Trade for measures of implementation or amendments, supplementations to this Circular when necessary.

2. Directors of the provincial Services of Industry and Trade shall:

a. Approve the annual inspection plan of the local market management agencies;

b. Monitoring, inspecting, examining the activities on duty of inspection and handling of administration violations and officers of local market management agencies as prescribed by law and this Circular.

3. Directors of Market Management Sub-Departments shall:

a. Organize inspection and sanction of administrative violations of the local Market management forces as prescribed by law and this Circular;

b. Implement written directions on inspection, inspection decisions of the market management Department or coordinate with the market management Department, market management forces of other localities in inspection, sanction of administrative violations when being requested;

c. Provide directions, monitor, urge, guide, examine the market management teams attached Sub-Departments in inspection and sanction of administrative violations as prescribed by law and this Circular;

d. Implement the reporting regime on situation, result of inspection and sanction of administrative violations of the local market management forces and send reports to Directors of the Services of Industry and Trade and market management Department in accordance with regulation.

4. The head of Market Management Team shall:

a. Organize inspection and sanction of administrative violations as prescribed by law and this Circular;

b. Implement the reporting regime on situation, result of inspection and sanction of administrative violations of the market management teams in their respective localities or assigned fields and send reports to the heads of superior market management agencies.

5. Heads of relevant state agencies at central and local level, other relevant organizations, and individuals shall:

a. Supply information, documents, evidences of inspection cases at the request of market management agencies;

b. Coordinate in inspection and handling of violations at the request of market management agencies;

c. Coordinate in implementation of decisions on inspection, decisions on search, decision on sanction and other decisions of heads of competent market management agencies.

Article 38. Effect

1. This Circular takes effect on July 01, 2013.

2. To annul Circulars of the Ministry of Industry and Trade No. 26/2009/TT-BCT dated August 26, 2009 defining the process of professional activities in inspection, control and handling of administrative violations of market management forces; No. 12/2008/TT-BCT, dated October 22, 2008, guiding the order of and procedures for the market management offices to receive and accept for settlement written requests for handling of administrative violations in the domain of intellectual property.

3. The director of market management Department, directors of the Services of Industry and Trade, directors of market management Sub-departments, head of market management teams, heads of units of the Ministry of Industry and Trade and relevant agencies, organizations, and individuals shall implement this Circular.

THE MINISTER OF INDUSTRY AND TRADE

Vu Huy Hoang

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