

**MINISTRY OF INDUSTRY
AND TRADE**

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SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom – Happiness

Hanoi, August 31, 2017

CIRCULAR

GUIDELINES FOR IMPLEMENTATION OF THE GOVERNMENT'S DECREE NO. 68/2017/ND-CP DATED MAY 25, 2017 ON MANAGEMENT AND DEVELOPMENT OF INDUSTRIAL CLUSTERS

Pursuant to the Government's Decree No. 98/2017/ND-CP dated August 18, 2017 defining the functions, tasks, powers and organizational structure of Ministry of Industry and Trade;

Pursuant to the Government's Decree No. 68/2017/ND-CP dated May 25, 2017 on management and development of industrial clusters;

At the request of the Director of the Agency for Regional Industry Development,

Minister of Industry and Trade promulgates a Circular regarding guidelines for implementation of the Government's Decree No. 68/2017/ND-CP dated May 25, 2017 on management and development of industrial clusters.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Circular provides guidelines for industrial cluster development plans; investment and construction of technical infrastructure systems in industrial clusters; reporting, database and templates of documents, regulations on industrial cluster management prescribed in the Government's Decree No. 68/2017/ND-CP dated May 25, 2017 on management and development of industrial clusters.

Article 2. Regulated entities

1. Enterprises, co-operatives, and entities making investment and construction of industrial cluster technical infrastructure.
2. Production and/or business establishments in industrial clusters.
3. Other agencies, organizations and individuals involved in management and operation of industrial clusters.

Chapter II

SPECIFIC PROVISIONS

Section 1. INDUSTRIAL CLUSTER DEVELOPMENT PLAN

Article 3. Industrial cluster development plan

1. The industrial cluster development plan is formulated on a provincial scale (hereinafter referred to as the “Plan”) and classified in the group of plans for production infrastructure structures for a period of 10 years with a vision for the following 10 years.
2. The Plan shall be adjusted every 5 years. In necessary cases, the Provincial-level People’s Committee may discuss and reach an agreement on adjustment of the Plan with Ministry of Industry and Trade.

Article 4. Outline and cost estimate for formulating the Plan

1. The outline and cost estimate for formulating the Plan shall be made in conformity with regulations in Article 5 of the Decree No. 68/2017/ND-CP and the Circular No. 01/2012/TT-BKHDT dated February 09, 2012 by Ministry of Planning and Investment providing guidance on determining cost levels for formulation, appraisal and announcement of social – economic development master plan, sector/field development plan and key product development plan.
2. The Provincial Department of Industry and Trade shall organize the formulation and appraisal of the outline and cost estimate for formulating the Plan, and submit them to the Provincial-level People’s Committee for approval. The appraisal of the outline and cost estimate shall be conducted by taking opinions from relevant provincial-level departments and agencies.
3. The Provincial Department of Industry and Trade shall request the Provincial-level People’s Committee to make decision on any adjustments to the outline and cost estimate for formulating the Plan, where necessary.

Article 5. Plan formulation

1. The Provincial Department of Industry and Trade shall lead and cooperate with relevant provincial-level departments/agencies and District-level People’s Committees to formulate the Plan. Specialists and consultants may be hired to participate in the Plan formulation. The Provincial Department of Industry and Trade shall assume responsibility to select qualified consultants in accordance with regulations of the Law on bidding.
2. In course of formulating the Plan, the Provincial Department of Industry and Trade shall assume responsibility to make intermediate reports to take opinions from relevant provincial-level departments/agencies, District-level People’s Committees, entities and individuals, and complete the Plan.

Article 6. Plan dossier

The Plan dossier includes:

1. The draft request for approval for the Plan made by the Provincial Department of Industry and Trade;
2. The draft of the Decision on approval for the Plan;
3. The reports on the Plan completion after obtaining opinions from relevant agencies (including consolidated reports and summary reports);
4. The reports on collection and explanation about opinions given by relevant provincial-level departments/agencies, District-level People's Committees, entities and individuals;
5. The written opinions given by relevant provincial-level departments/agencies, District-level People's Committees, entities and individuals;
6. The Decision on approval for the outline and cost estimate;
7. Other documents (if any).

Article 7. Appraisal of the Plan

1. The Plan dossier shall be appraised by the Appraisal Board. The Appraisal Board shall organize a meeting to appraise the validity of the Plan dossier, make report and assume responsibility before the Provincial-level People's Committee for the appraising results.

After completing the Plan dossier, the Provincial Department of Industry and Trade shall request the Provincial-level People's Committee to establish the Plan Appraisal Board. The Appraisal Board is comprised of: The Chairperson of the Appraisal Board who is the head of the Provincial-level People's Committee, 01 Deputy Standing Chairperson who is the head of the Provincial Department of Industry and Trade, 01 Deputy Chairperson who is the head of the Provincial Department of Planning and Investment, 01 Secretary, 02 critics who are specialists in relevant sectors, and other members who are representatives of the Provincial Department of Natural Resources and Environment, and other relevant provincial-level departments, agencies and organizations.

2. The Provincial Department of Industry and Trade shall assume responsibility to:
 - a) Send the Plan dossier to all members of the Appraisal Board at least 05 working days before the date on which the meeting is organized to appraise the Plan dossier;
 - b) Effectuate conclusions of the Appraisal Board;

c) Prepare the written request for approval for the Plan, enclosed with the draft of Decision on approval for the Plan, and perform other relevant duties.

Article 8. Approval for the Plan

1. After completing the Plan dossier according to the conclusions of the Appraisal Board, the Provincial Department of Industry and Trade request the Provincial-level People's Committee to sign the written request for agreement on the Plan sent to the Ministry of Industry and Trade.

2. Procedures and applications for agreement and approval for the Plan shall be performed in accordance with regulations in Clauses 3, 4 and 5 Article 6 of the Decree No. 68/2017/ND-CP.

Section 2. INVESTMENT AND CONSTRUCTION OF INDUSTRIAL CLUSTER TECHNICAL INFRASTRUCTURE

Article 9. Detailed plan for construction of industrial cluster

1. The formulation, appraisal and approval for the detailed plan for construction of industrial cluster shall be carried out in accordance with regulations on detailed plan for dedicated zone in the Law on Construction, the Government's Decree No. 44/2015/ND-CP dated May 06, 2015 elaborating certain regulations on construction planning, the Circular No. 12/2016/TT-BXD dated June 29, 2016 by the Ministry of Construction providing for proposals and design of regional, urban and dedicated zone construction planning.

2. Determination and management of costs of the detailed plan for construction of industrial cluster shall be carried out in accordance with regulations in the Circular No. 05/2017/TT-BXD dated April 05, 2017 by the Ministry of Construction regarding guidance on determination and management of construction planning and urban planning costs.

3. Selecting qualified consultant for formulating the detailed construction plan shall be carried out in accordance with regulations of the Law on Bidding.

Article 10. Project on investment and construction of industrial cluster technical infrastructure

1. With regard to an industrial cluster of which decision on establishment or expansion is made according to the procedures or regulations in the Decree No. 68/2017/ND-CP, the project on investment and construction of industrial cluster technical infrastructure shall not require procedures for decision on approval for investment proposal.

2. Contents and procedures for formulation, appraisal, approval and management of the project on investment and construction of industrial cluster technical infrastructure shall be carried out in accordance with the Government's Decree No. 59/2015/ND-CP dated June 18, 2015 on construction project management and the Government's Decree No. 42/2017/ND-CP dated April 05, 2017 on amendments to the Decree No. 59/2015/ND-CP.

3. The investor shall prepare the environmental impact assessment report at the same time when formulating the project. Contents and procedures for formulation, appraisal and approval for the environmental impact assessment report shall be carried out in accordance with regulations in the Government's Decree No. 18/2015/ND-CP dated February 14, 2015 promulgating regulations on environmental protection planning, strategic environmental assessment, environmental impact assessment and environmental protection plans.

Article 11. Duties of entity assigned to act as the investor of the project on investment and construction of industrial cluster technical infrastructure as prescribed in Clause 2 Article 15 of Decree No. 68/2017/ND-CP

1. Within the territory of a district, if the Center for industrial clusters development and the Industrial Cluster Management Board are not established, the Provincial-level People's Committee shall assign a qualified public service provider affiliated to the Provincial Department of Industry and Trade to act as the investor of the project on investment and construction of industrial cluster technical infrastructure.

2. The assigned investor of the project on investment and construction of industrial cluster technical infrastructure as prescribed in Clause 2 Article 15 of Decree No. 68/2017/ND-CP shall discharge the following duties:

a) Engage in adjustments to the industrial cluster development Plan and/or reports on investment and establishment or expansion of industrial cluster; organize the formulation and management of the detailed plan for industrial cluster construction;

b) Develop, manage and ensure the progress for investment and construction of industrial cluster technical infrastructure; propose methods of mobilization of capital for technical infrastructure investment and construction to competent authorities in accordance with regulations;

c) Manage, operate, maintain and ensure the normal operation of general technical infrastructure systems and organize the provision of services and/or facilities in the industrial cluster in accordance with laws;

d) Carry out the investment promotion and guide procedures for developing investment projects and production establishments moved in the industrial cluster; assist and facilitate organizations and individuals in producing and trading in the industrial cluster;

dd) Fulfill other duties as assigned by competent authorities and in accordance with laws.

Section 3. REPORTING, TEMPLATES OF DOCUMENTS, REGULATIONS ON INDUSTRIAL CLUSTER MANAGEMENT

Article 12. Reporting on industrial cluster

1. Reports are prepared by:

- a) Local Industry and Trade Department;
- b) Provincial Department of Industry and Trade;
- c) Division in charge of industry and trade management affiliated to the District-level People's Committee; the District-level Statistics Agency;
- d) The investor of the project on investment and construction of industrial cluster technical infrastructure;
- dd) Production and/or business establishments in the industrial cluster.

2. Periodic reports:

- a) By the 20th of April, July, October annually and January of the following year, production and/or business establishments in the industrial cluster shall prepare and submit reports on their production and business results in 3 months, 6 months, 9 months and entire year using Template 01 stated in the Appendix 1 enclosed herewith to the District-level Statistics Agency, and at the same time send the copies thereof to the Division in charge of industry and trade management affiliated to the District-level People's Committee.
- b) By the 20th of July annually and January of the following year, the investor shall prepare and submit reports on the operation of the project on investment and construction of industrial cluster technical infrastructure in 6 months and entire year using Template 02 stated in the Appendix 1 enclosed herewith to the District-level Statistics Agency, and at the same time send the copies thereof to the Division in charge of industry and trade management affiliated to the District-level People's Committee, and the Provincial Department of Industry and Trade.
- c) By the 25th of July annually and January of the following year, the Division in charge of industry and trade management affiliated to the District-level People's Committee shall prepare and submit reports on the investment and construction of technical infrastructure, the production and business activities in industrial cluster in the district in 6 months and entire year using Template 03 stated in the Appendix 1 enclosed herewith to the Provincial Department of Industry and Trade and the District-level People's Committee.
- d) By the 31st of July annually and January of the following year, the Provincial Department of Industry and Trade shall prepare and submit reports on the investment and construction of technical infrastructure, the production and business activities in industrial cluster in the province in 6 months and entire year using Template 04 stated in the Appendix 1 enclosed herewith to the Provincial-level People's Committee and the Local Industry and Trade Department.
- dd) By the 31st of March of the following year, the Local Industry and Trade Department shall submit consolidated report on the investment and construction of technical infrastructure, the production and business activities in industrial clusters nationwide to the Ministry of Industry and Trade.

3. Periodic reports shall be made in writing and updated to the industrial cluster databases (of the Local Industry and Trade Department, the Provincial Department of Industry and Trade, and Division in charge of industry and trade management affiliated to the District-level People's Committee). Additionally, unscheduled reports may be made at the request of competent authorities.

Article 13. Establishment, management and operation of the industrial cluster database

1. The Local Industry and Trade Department shall organize the establishment, management and operation of the national industrial cluster database, and instruct Provincial Departments of Industry and Trade to update data on the national industrial cluster database.

2. Each Provincial Department of Industry and Trade shall organize the establishment, management or operation of provincial industrial cluster database, and instruct the Division in charge of industry and trade management affiliated to the District-level People's Committee to update data on the provincial industrial cluster database; assume responsibility to update sufficient, timely and accurate information about provincial industrial clusters on the national industrial cluster database.

3. The Division in charge of industry and trade management affiliated to the District-level People's Committee shall assume responsibility to update sufficient, timely and accurate information about industrial clusters in district on the provincial industrial cluster database.

Article 14. Templates of documents, regulations on industrial cluster management

Local authorities may use the templates of documents and regulations on industrial cluster management stated in Appendix 2 enclosed herewith according to the local reality.

Chapter III

ORGANIZATION OF IMPLEMENTATION

Article 15. Responsibility of Local Industry and Trade Department

The Local Industry and Trade Department shall assist the Minister of Industry and Trade to perform state management of industrial clusters nationwide in accordance with regulations in Article 35 of the Decree No. 68/2017/ND-CP; instruct the implementation of this Circular and handle any difficulties that arise during the implementation of this Circular.

Article 16. Responsibility of Provincial Department of Industry and Trade

1. Exercise rights and discharge duties of industrial cluster management as defined in Article 43 of Decree No. 68/2017/ND-CP.

2. Assist the Provincial-level People's Committee to perform state management of industrial clusters in the province as regulated in Article 42 of Decree No. 68/2017/ND-CP; take charge

and cooperate with relevant provincial-level departments/agencies in requesting the Provincial-level People's Committee to make decision on selection of the investor of the project on investment and construction of industrial cluster technical infrastructure; participate in the appraisal of the detailed plan for construction of industrial cluster, the project on investment and construction of industrial cluster technical infrastructure and the environmental impact assessment report of the industrial cluster; take charge and cooperate in appraising the proposals for investment in production and/or business projects in the industrial cluster in accordance with regulations and as assigned by the Provincial-level People's Committee.

3. Formulate and request the Provincial-level People to promulgate regulations for cooperation between provincial-level departments, agencies and District-level People's Committees in managing and processing investment procedures by adopting single-window system or inter-agency single-window system with respect of:

a) Project on investment and construction of industrial cluster technical infrastructure (including: issuance of certificates of investment registration, land appropriation, land leasing, approval for detailed plan, approval for public investment projects, approval for environmental impact assessment reports and approval for fire fighting and prevention plans;

b) Project on investment in production and/or business activities in industrial cluster (including decision on investment proposals, issuance of certificates of investment registration, land appropriation, and land leasing, issuance of construction permit, approval for fire fighting and prevention plan, certification of environment protection plan or approval for environmental impact assessment report).

Article 17. Responsibility of Division in charge of industry and trade management affiliated to the District-level People's Committee

Division in charge of industry and trade management affiliated to the District-level People's Committee shall assist the District-level People's Committee in managing industrial cluster in the district in accordance with regulations in Article 44 of Decree No. 68/2017/ND-CP.

Article 18. Entry into force

1. This Circular comes into force as from October 16, 2017.

2. This Circular supersedes the Circular No. 39/2009/TT-BCT dated December 28, 2009 by Ministry of Industry and Trade regarding guidance on certain contents of the Regulation on industrial cluster management enclosed with the Prime Minister's Decision No. 105/2009/QD-TTG dated August 19, 2009; abrogates policies for reporting on industrial cluster stated in the Template No. 05/SCT-BCT promulgated under the Circular No, 41/2016/TT-BCT dated December 30, 2016 by Ministry of Industry and Trade providing for reporting and statistics policies abided by Provincial Departments of Industry and Trade of provinces or central-affiliated cities and the Ministry of Industry and Trade's regulations that are contrary to provisions herein.

3. In case the legislative documents referred to in this Circular are replaced, the new ones shall prevail.

4. Difficulties that arise during the implementation of this Circular should be reported to the Ministry of Industry and Trade (via Local Industry and Trade Department) for consideration./.

MINISTER

Tran Tuan Anh