

THE MINISTRY OF LABOR - SOCIALIST REPUBLIC OF VIET NAM
INVALIDS AND SOCIAL AFFAIRS - Independence - Freedom – Happiness
THE MINISTRY OF HEALTH -----

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Hanoi, January 10, 2011

JOINT CIRCULAR

**GUIDING THE ORGANIZATION OF LABOR SAFETY AND SANITATION
WORK IN LABOR-EMPLOYING ESTABLISHMENTS**

Pursuant to the June. 23, 1994 Labor Code; the April 2, 2002 Law Amending and Supplementing a Number of Articles of the Labor Code; and the June 29, 2006 Law Amending and Supplementing a Number of Articles of the Labor Code;
Pursuant to the Governments Decree No. 06/ CP of January 20, 1995, detailing a number of articles of the Labor Code regarding labor safety and sanitation; and Decree No. 110/2002/ ND-CP of December 27, 2002, amending and supplementing a number of articles of Decree No. 06/CP;
After consulting the Vietnam General Confederation of Labor; the Ministry of Finance and concerned agencies, the Ministry of Labor, War Invalids and Social Affairs and the Ministry of Health jointly guide the organization of labor safety and sanitation work in labor-employing establishments as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular provides for organization of the apparatus in charge of labor safety and sanitation work, assignment of responsibilities for, planning, self-inspection, making of statistics and reports on, and review of this work in labor-employing establishments.

Article 2. Subjects of applications

This Circular applies to all agencies, enterprises and establishments which employ labor (below referred to as labor-employing establishments) operating in the Vietnamese territory, except state administrative agencies, socio-political organizations, socio-professional organizations and other non-governmental organizations based in Vietnam.

Article 3. Funding

Funds for labor safety and sanitation work shall be accounted as regular operation expenses or production and business expenses of labor-employing establishments and as reasonable expenses for enterprise income tax calculation and payment by these establishments under the current law on enterprise income tax.

Chapter II

ORGANIZATION OF THE APPARATUS IN CHARGE OF AND ASSIGNMENT OF RESPONSIBILITIES FOR LABOR SAFETY AND SANITATION IN LABOR-EMPLOYING ESTABLISHMENTS

Article 4. Organization of labor safety and sanitation units

1. A labor-employing establishment shall set up a labor safety and sanitation unit according to the following minimal regulations:

a/ If the establishment employs under 300 direct workers, it shall appoint at least 1 part-time labor safety and sanitation officer;

b/ If the establishment employs between 300 and 1.000 direct workers, it shall appoint at least 1 full-time labor safety and sanitation officer;

c/ If the establishment employs more than 1,000 direct workers, it shall set up a labor safety and sanitation office or section or appoint at least 2 full-time labor safety and sanitation officers.

2. A labor safety and sanitation officer must satisfy the following conditions:

a/ Having professional knowledge and skills in safety, fire and explosion prevention and fighting, labor environment and sanitation techniques;

b/ Being knowledgeable about practical production, business or service provision operations of his/her establishment.

3. In case a labor-employing establishment cannot set up a labor safety and sanitation unit satisfying the conditions specified in Clauses 1 and 2 of this Article, it shall sign a contract with a capable organization to discharge the labor safety and sanitation tasks specified in Clause 2, Article 5 of this Circular.

Article 5. Functions and tasks of a labor safety and sanitation unit

1. Functions:

A labor safety and sanitation unit shall function to advise and assist the employer in organizing the performance, inspection and supervision of labor safety and sanitation activities.

2. Tasks:

a/ To coordinate with relevant units in the labor-employing establishment in:

- Elaborating internal rules, regulations, processes and measures to assure labor safety and sanitation, prevent and fight fire and explosion in the establishment;
- Managing and monitoring the registration and inspection of machines, equipment, supplies and substances subject to stringent labor safety and sanitation requirements;
- Working out annual labor safety and sanitation plans and urging and supervising the implementation of these plans; assessing risks and working out emergency response and rescue plans;
- Disseminating the State's and the labor-employing establishment's regulations on labor safety and sanitation within the establishment;
- Organizing labor safety and sanitation training for employees;
- Conducting labor safety and sanitation examination at least once a month in production units and places in which heavy, noxious or dangerous jobs are performed;
- Checking the labor environment and food safety (if the establishment provides industrial shift meals for employees); following the situation of occupational injuries and diseases; and proposing the employer to take measures to manage and care for labor health.

b/ To propose and take part in inspecting the observance of labor safety and sanitation regulations by the labor-employing establishment under Article 17 of this Circular;

c/ To propose to the employer measures to address labor safety and sanitation problems.

Article 6. Powers of a labor safety and sanitation unit

1. To request heads of production units to stop the performance of a job or decide to suspend the performance of a job (in case of emergency) upon detecting risks of labor accident for taking measures to assure labor safety and concurrently reporting these risks to the employer.

2. To stop the operation of a machine or equipment which it finds unsafe or outdated.

3. To take part in investigating into, making statistics on, reporting on and managing labor accidents under current laws.

4. To attend production briefings and meetings to preliminarily or finally review practical production or business operations and appraise the implementation of labor safety and sanitation plans.

5. To give its opinions on labor safety and sanitation at meetings to work out production or business plans, in making and approving designs and construction and takeover-test plans, or in receiving and pulling into use workshops, machines and equipment.

6. To summarize and propose to the employer solutions to recommendations or requests of inspection or examination teams, subordinate units or employees.

7. To contribute its opinions to emulation and commendation work: to summarize and propose commendation and rewarding or disciplining of collectives or individuals for their labor protection, safety and sanitation work.

Article 7. Organization of health units in labor-employing establishments

1. A labor-employing establishment shall set up a health unit according to the following minimal regulations:

a/ If the establishment employs between 500 and 1.000 direct workers, it must have at least 1 health worker possessing an intermediate medicine degree;

b/ If the establishment employs more than 1.000 direct workers working together in the same place, it shall organize a health station or unit or an infirmary staffed with at least 1 assistant medical doctor or general medical doctor.

2. In case a labor-employing establishment cannot set up a health unit under Clause I of this Article or employs under 500 direct workers, it shall sign a healthcare contract with any of the following local health establishments:

a/ Health station of commune, ward or township:

b/ Regional general clinic;

c/ Hospital of district or provincial city (below collectively referred to as district) or district-level health center.

Article 8. Functions and tasks of a health unit

1. Functions: A health unit shall function to advise and assist the employer in managing employee health and to directly perform the management of employee health.

2. Tasks:

a/ To provide ordinary medical examination and treatment services in the establishment and provide first aid and intensive care for labor accident victims;

b/ To manage employee health, covering providing regular health checks and medical examinations to detect occupational diseases; keeping and monitoring health records for recruitment, regular health check records and occupational disease records (if any);

c/ To manage medical equipment and instruments and medicines supplied for first aid and intensive care purposes for each production shift (if any) or each workshop;

d/ To elaborate internal rules on labor sanitation and elements likely to cause occupational diseases and contingency measures for employees to prevent occupational diseases;

e/ To work out practical scenarios requiring first aid and intensive care in the labor-employing establishment; to prepare labor accident response plans and scenarios in the establishment in order to assure effective first aid and intensive care when labor incidents or accidents occur;

f/ To inspect the observance of sanitation and epidemic prevention and control rules, assuring food safety and hygiene for employees of the establishment; to coordinate with the labor safety and sanitation unit in organizing the measurement, examination and supervision of dangerous elements in the labor environment, and to guide workshops and employees in taking labor sanitation measures;

g/ To work out plans on convalescence and functional rehabilitation for employees who perform heavy or hazardous jobs or whose health is graded IV or V through regular health checks or who have contracted an occupational disease;

h/ To annually train employees in understanding the impacts of the labor environment's elements which are harmful to their health, contingency measures to

prevent occupational element-related diseases, and actions to be taken to provide first aid and intensive care for victims of common labor accidents in workplaces;

i/ To conduct annual examination and supervision of the labor environment; to manage the establishment's labor sanitation dossier; to make recommendations and propose measures to improve working conditions and health for employees;

j/ To guide and organize the provision of allowances in kind (quantities and method of providing allowances) for employees working in hazardous conditions;

k/ To take part in improving procedures for assessment of health problems and injuries of employees suffering occupational diseases or labor accidents;

l/ To collaborate and comply with instructions of the health agencies of the locality, ministry and sector (if any) in managing employee health; to receive and fully follow professional instructions of these health agencies;

m/ To send periodical reports on management of employee health and occupational diseases to the health agencies of the locality, ministry and sector (if any).

Article 9. Powers of a health unit

1. To attend briefings on production and meetings to review production or business operations and appraise the implementation of labor safety and sanitation plans:

2. To attend meetings to elaborate production or business plans, make and approve designs and plans on construction, takeover test and operation of workshops, machines and equipment so as to give opinions on labor safety and sanitation;

3. To request heads of production units to order the termination of a job or to decide on suspension of a job (in case of emergency) upon detecting signs of violation or risks of health damage, disease or illness for employees, and concurrently to report these problems to the employer.
4. To stop the use of substances unconfirmable with labor sanitation regulations;
5. To take part in summarizing and proposing for commendation or disciplining collectives or individuals in labor protection, safety and sanitation work;
6. To participate in meetings, conferences and relations with the health agencies of the locality, ministry and sector for raising of professional skills and work coordination.

Article 10. Organization of a network of safety and sanitation workers

1. Each professional department or section of a medical examination and treatment establishment or each production unit of an enterprise or a production or business establishment must have at least one part-time safety and sanitation worker.
2. A safety and sanitation worker must be a direct worker who is professional!)' knowledgeable (about labor safety and sanitation knowledge and techniques). enthusiastic and exemplary in observing labor safety and sanitation regulations and elected by employees of a working team.
3. Safety and sanitation workers shall work under the management and guidance by the grassroots trade union executive board or the representative of the labor collective and the employer-issued operation regulation of the network of safety and sanitation workers.

Article 11. Tasks of a safety and sanitation worker

1. To urge, remind and guide employees in his/her working team, section or department to strictly observe regulations on labor safety and sanitation, preservation of safety and personal protection devices; to remind the team or section head and department dean to observe labor safety and sanitation regulations.
2. To supervise the observance of standards, regulations, processes and internal rules on labor safety and sanitation, to detect labor safety and sanitation mistakes and violations of employees in his/her team, section or department; to detect unsafe machines or equipment.
3. To take part in working out labor safety and sanitation plans, working measures and plans to assure labor safety and sanitation within his/her team, section or department; to take part in guiding safe working methods for new employees in his/her team, section or department.
4. To request the team head or his/her superior to fully observe labor protection regulations and take adequate measures to assure labor safety and sanitation and promptly address unsafe and unsanitary problems of machines and equipment in the workplace.

Article 12. Powers of a safety and sanitation worker

1. To devote some of his/her working time to performing his/her tasks as a safety and sanitation worker: particularly, safety and sanitation workers in production teams are salaried for their performance of tasks as safety and sanitation workers and entitled to a responsibility allowance like production team heads.

2. To request employees in his/her working team to stop working and take measures to assure labor safety and sanitation upon detecting risks of an imminent incident or labor accident.

3. To study or receive training provided by the employer in coordination with the trade union for raising professional skills or improving operation methods.

Article 13. Organization of labor protection councils

1. Any labor-employing establishment which employs over 1.000 direct workers shall set up a labor protection council. Other labor-employing establishments may set up a labor protection council when finding it necessary and having sufficient conditions for the operation of such council.

2. Labor protection councils function to coordinate and advise on labor safety and sanitation activities in their labor-employing establishments and to guarantee the trade union's right to take part in and inspect and supervise labor protection, safety and sanitation activities.

3. The membership of a labor protection council depends on the number of employees and the size of its establishment and complies with the following regulations:

a/ The representative of the employer acts as chairman of the council:

b/ The representative of the grassroots trade union executive board or employees in an establishment without trade union organization acts as vice chairman of the council:

c/ The head of the labor safety and sanitation unit or the labor safety and sanitation officer of the establishment acts as standing member-cum-secretary of the council.

If the labor safety and sanitation officer is hired under a contract from another organization, the standing member-cum-secretary of the council shall be appointed by the employer.

Depending on the characteristics and practical conditions of each labor-employing establishment, a labor protection council may have other related members, provided the total number of its members must not exceed 9.

Article 14. Tasks and powers of a labor protection council

1. To join and give advices to the employer and coordinate activities in the elaboration of regulations on management of. programs of action for. and plans on labor safety and sanitation and measures to assure labor safety and sanitation, improve labor conditions, and prevent labor accidents and occupational diseases in its labor-employing establishment.

2. To inspect labor safety and sanitation work in the labor-employing establishment on a biannual and annual basis. Through the inspection, if detecting a risk of unsafety, to request the employer to take measures to address such risk.

Chapter III

LABOR SAFETY AND SANITATION PLANS

Article 15. Elaboration of labor safety and sanitation plans

1. When elaborating a plan on operation to perform its annual tasks, a labor-employing establishment shall concurrently elaborate a labor safety and sanitation plan, for jobs arising in a plan year, it shall elaborate an additional labor safety and sanitation plan suitable to these jobs.

2. Labor safety and sanitation plans shall be worked out by production teams, sections and divisions upwards and concurrently announced to all employees for comment.

3. The elaboration of a labor safety and sanitation plan must be based on:

a/ Expenses for labor safety and sanitation work in the last year; tasks and orientations of production and business plans and practical information on employees in the plan year;

b/ Shortcomings and problems in labor safety and sanitation work drawn from incidents, labor accidents, fires, explosions and occupational diseases and labor safety and sanitation work review reports in the last year;

c/ Proposals and petitions of employees, the trade union organization and inspection or examination teams:

d/ Current regulations on labor safety, sanitation and protection.

4. A labor safety and sanitation plan must indicate specific activities together with measures, expenses, deadlines and responsibilities to perform these activities. A labor safety and sanitation plan must have at least the following information:

a/ Technical measures for safety and fire and explosion prevention and fighting;

b/ Technical measures for labor sanitation and improvement of working conditions; installation of ventilation, dust and toxic gas hoovering and lighting systems, sound-proof partitions, anti-vibration system; isolation of harmful microorganisms; renovation of bathrooms and restrooms; gauge and inspection of the labor environment, etc.;

c/ Equipping of personal protection devices for employees;

d/ Healthcare for employees to prevent occupational diseases;

e/ Labor safety and sanitation communication, education and training.

5. Depending on the practical situation and conditions, labor-employing establishments shall elaborate annual detailed labor safety and sanitation plans under the guidance provided in Appendix 2 to this Circular (not printed herein).

Article 16. Implementation of labor safety and sanitation plans

1. Right after a labor safety and sanitation plan is approved, officers, sections and divisions assigned by the employer shall coordinate with the labor safety and sanitation unit and the health unit in implementing that plan and concurrently urge and inspect the implementation.

2. The employer shall organize periodical reviews and assessments of the implementation of labor safety and sanitation plans and notify implementation results to employees in the labor-employing establishment.

Chapter IV

LABOR SAFETY AND SANITATION SELF-INSPECTION

Article 17. Labor safety and sanitation self-inspection

1. Employers shall prescribe and organize labor safety and sanitation self-inspection in their establishments.

2. Employers shall decide on self-inspection activities, forms and schedule; under the guidance in Appendix 3 to this Circular (not printed herein), provided that comprehensive inspection shall be conducted at least once every 6 months in the

whole establishments and at least once every 3 months in workshops and production teams or groups.

3. For a group of companies operating under the Law on Enterprises, self-inspection regulations are applicable to each company in the group.

Chapter V

STATISTICS. REPORTS, PRELIMINARY AND FINAL REVIEWS

Article 18. Statistics and reports

1. Labor-employing establishments shall compile a book of" statistics on issues to be reported under current regulations. Statistical data must be kept for at least 5 years for workshops and at least 10 years for labor- employing establishments to serve as a basis for monitoring, analyzing and devising labor safety and sanitation policies and measures in their establishments.

2. Labor-employing establishments, including their subsidiaries and representative offices based in a locality, and units conducting construction in a locality shall report on labor safety and sanitation work twice a year (biannual and annual reports, made according to the form provided in Appendix 4 to this Circular, not printed herein) to the superior agency directly managing them, the provincial-level Labor. War Invalids and Social Affairs Department and Health Department and the local labor confederation. Biannual reports must be sent before July 5. while annual reports must be sent before January 10 of the next year.

3. Provincial-level Labor. War Invalids and Social Affairs Departments shall summarize the performance of labor safety and sanitation work by labor-employing establishments in their localities and send reports thereon, made according to the

form provided in Appendix 5 to this Circular (not printed herein), to the Ministry of Labor, War Invalids and Social Affairs before January 30 every year.

Article 19. Preliminary and final reviews

1. Biannually and annually, labor-employing establishments shall review the labor safety and sanitation work, covering analysis of results, shortcomings, problems and lessons; commendation of units and individuals that have well performed labor safety and sanitation work in the establishments; and launching of emulation movements to assure labor safety and sanitation.
2. Preliminary and final reviews shall be conducted from workshops and production teams to labor-employing establishments.

Chapter VI

RESPONSIBILITIES

Article 20. Responsibilities of employers for labor safety and sanitation

1. To take responsibility before law for the observance of labor safety and sanitation regulations, labor accidents and occupational diseases in their labor-employing establishments.
2. To issue decisions to assign responsibilities and powers for labor safety and sanitation to managers, professional units and affiliated units, taking into account to production or business characteristics of their labor-employing establishments. Employers may provide additional personnel, responsibilities and powers to these units when conditions of their establishments permit but shall assure that such additional provision is made within their competence and compliant with current

laws. The assignment of responsibilities for labor safety and sanitation complies with the guidance in Appendix 1 to this Circular (not printed herein).

3. To direct affiliated units and individuals under their management in properly implementing labor safety and sanitation programs and plans.

4. To fulfill their obligations in labor safety and sanitation work under current regulations, specifically as follows:

a/ Annually, when elaborating production or business plans for their establishments, to devise and approve labor safety and sanitation plans and measures and to improve working conditions;

b/ To equip sufficient personal protection devices and implement other regulations on labor protection, safety and sanitation for their employees;

c/ To appoint persons to supervise and inspect the implementation of labor safety and sanitation regulations, internal rules and measures in their establishments; to coordinate with grassroots trade union organizations in establishing and maintaining the operation of the network of safety and sanitation workers;

d/ To develop and revise labor safety and sanitation internal rules and processes. emergency response plans suitable to each type of machines, equipment and supplies (also in cases of renewal of technologies, machines, equipment and supplies) and workplaces;

e/ To organize training in and guide labor safety and sanitation standards, regulations and measures for employees;

f/ To provide regular health checks or medical examinations to detect occupational diseases (if any) for employees;

g/ To organize the assessment of labor accidents and occupational diseases for employees after their health conditions become stable;

h/ To make declarations, surveys, statistics and reports on labor accidents and occupational diseases; to make statistics and reports on the performance of labor safety and sanitation work, training, registration and inspection.

5. To coordinate with grassroots trade union executive boards in launching mass movements for labor safety and sanitation and environmental protection in their establishments.

Article 21. Tasks of grassroots trade union organizations in labor safety and sanitation

1. To take part on behalf of employees in elaborating and signing collective labor accords which contain labor safety and sanitation terms.

2. To disseminate among and educate employees and employers about labor safety and sanitation regulations and mobilize them to properly implement these regulations; to observe regulations, standards and measures for safe work and promptly detect signs of inadequate safety and sanitation in production and combat irresponsible and careless performance and breaches of technical safety processes.

3. To consult labor collectives upon performing the following jobs: elaboration of internal rules, regulations on labor safety and sanitation management; elaboration of labor safety and sanitation plans; assessment of the implementation of labor protection regulations and policies, measures to assure employee safety and health; review for drawing experience from their labor safety and sanitation activities for sharing with employers.

4. To coordinate with employers in organizing activities to step up the labor safety and sanitation movement; to encourage employees to innovate equipment, machines and technologies in order to better the working environment and mitigate labor.

5. To coordinate with employers in organizing training courses in labor protection professional skills for trade union cadres and labor safety and sanitation workers.

Article 22. Powers of grassroots trade union organizations for labor safety and sanitation

1. To join employers in elaborating regulations and internal rules on labor safety and sanitation management.

2. To organize independent inspection teams or join self-inspection teams organized by labor-employing establishments to inspect the implementation of labor safety and sanitation plans, regulations and policies and measures to assure employee safety and health.

3. To propose employers to take measures to assure labor safety and sanitation and prevent labor accidents and occupational diseases under law.

4. To take part in investigations into labor accidents; to attend meetings of inspection and examination teams to make conclusions on labor safety and sanitation in their establishments.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 23. Effect

This Circular takes effect on March 1, 2011.

To annul Joint Circular No. 14/1998/TTLT-BLDT13XH-13YT-TLDDLVDN of October 31, 1998, of the Ministry of Labor War Invalids and Social Affairs, the Ministry of Health and the Vietnam General Confederation of Labor. guiding labor protection work in enterprises and production or business establishments.

Any problems arising in the course of implementation should be reported to the Ministry of Labor, War Invalids and Social Affairs and the Ministry of Health for consideration and settlement.

**FOR THE MINISTER OF
HEALTH
DEPUTY MINISTER**

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