

*At the proposal of the Minister of
Agriculture and Rural Development,*

*The Government promulgates the Decree
on management of fishing ports and storm
shelter zones for fishing ships.*

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation and subjects
of application

1. This Decree provides the management
of fishing ports and storm shelter zones for
fishing ships; and responsibilities of agencies,
organizations and individuals operating at
fishing ports and storm shelter zones for fishing
ships.

2. This Decree applies to Vietnamese and
foreign organizations and individuals
conducting activities related to fishing ports and
storm shelter zones for fishing ships in Vietnam.
In case a treaty to which the Socialist Republic
of Vietnam is a contracting party contains
provisions different from those of this Decree,
such treaty prevails.

Decree No. 80/2012/ND-CP of October 8, 2012, on management of fishing ports and storm shelter zones for fishing ships

*Pursuant to the December 25, 2001 Law
on Organization of the Government;*

*Pursuant to the November 26, 2003 Law
on Fisheries;*

Article 2. Principles of construction of
fishing ports and storm shelter zones for fishing
ships

1. The construction of fishing ports and
storm shelter zones for fishing ships must
comply with the master plan on development

of fishing ports and storm shelter zones for fishing ships approved by the Prime Minister; suit the natural geographical conditions of each region and each locality; satisfy standards and technical regulations on construction of fishing ports and storm shelter zones for fishing ships, and at the same time take into account the impacts of climate change and sea level rise.

2. Vietnamese and foreign organizations and individuals shall invest in the construction and management of fishing ports in accordance with this Decree and relevant regulations.

Article 3. Acts prohibited in fishing ports and storm shelter zones for fishing ships

1. Destroying, dismantling or damaging works and equipment of fishing ports and storm shelter zones for fishing ships.

2. Encroaching upon the areas for protection of works of fishing ports and storm shelter zones for fishing ships.

3. Discharging waste oil, dirty, toxic or harmful substances, dirty wastewater or daily-life garbage or jettisoning wastes not at prescribed places.

4. Obstructing the management, operation, use and protection of fishing ports and storm shelter zones for fishing ships.

5. Improperly steering fishing ships and other vessels, thereby affecting works of fishing ports and storm shelter zones for fishing ships.

6. Other acts prescribed by law.

Chapter II

MANAGEMENT AND OPERATION OF FISHING PORTS

Article 4. Classification of fishing ports

Fishing ports are classified as follows:

1. Class-I fishing ports: A class-I fishing port must fully satisfy the following conditions:

a/ Position: Being constructed at a large estuary or bay or on an island and called at by fishing ships of many localities, including foreign fishing ships, for loading and unloading aquatic products, and providing other fishing services; acting as a key distribution place for aquatic products in the area or being associated with a local fishing logistic service center or fish market;

b/ Having its main equipment and tools and goods loading-unloading equipment line fully mechanized;

c/ Having a land area of at least 4 hectares (or of at least 1 hectare for fishing ports on islands); and having fishing logistic service facilities, working offices and auxiliary works satisfying requirements on environmental protection, food safety and fire and explosion prevention and fighting at the port;

d/ Having a designed annual throughput of aquatic products of at least 15,000 tons (or of at least 3,000 tons for fishing ports on islands).

2. Class-II fishing ports: A class-II fishing

port must fully satisfy the following conditions:

a/ Position: Being constructed at a river or canal mouth, bay or coastal lagoon, or an island and called at by fishing ships of the locality and neighboring provinces for loading and unloading aquatic products, and providing other fishing services; and acting as a key gathering place for aquatic products associated with a local fishing logistic service center;

b/ Having some equipment and tools and goods loading-unloading equipment line mechanized;

c/ Having a land area of at least 2.5 hectares (or of at least 0.5 hectare for fishing ports on islands); and having fishing logistic service facilities, working offices and auxiliary works satisfying requirements on environmental protection, food safety and fire and explosion prevention and fighting at the port;

d/ Having a designed annual throughput of aquatic products of at least 7,000 tons (or of at least 1,000 tons for fishing ports on islands).

Article 5. Management of fishing ports

1. At fishing ports invested by the State or constructed with the state budget, port management boards are public non-business units or enterprises as defined by law. Fishing port management boards and directors are decided by competent agencies.

2. At fishing ports constructed by organizations and individuals, fishing port

management boards are enterprises as defined by law. Fishing port management boards and directors are decided by investors.

Article 6. Conditions for opening and closing fishing ports

1. Conditions for opening a fishing port:

a/ The fishing port and port fairways have been tested for operation in accordance with the laws on construction and transport;

b/ The fishing port management board has been established;

c/ There is a fishing port operation and use plan approved by the provincial-level fisheries management agency.

2. Conditions for closing a fishing port:

A fishing port is closed in any of the following cases:

a/ The topographical and hydrological conditions are changing to be unsafe for the operation of the fishing port;

b/ Works of the fishing port have seriously degraded and cannot assure safety as prescribed;

c/ The fishing port management board is suspended from operation or terminates its operation in accordance with law.

Article 7. Order and procedures for announcing the opening of a fishing port

1. After the construction or upgrading of a

fishing port is completed, the fishing port management board shall file a dossier requesting a competent agency to announce the opening of the fishing port.

A dossier set comprises:

a/ A written request for announcement of the opening of a fishing port, made according to a set form;

b/ A certified copy of the fishing port construction investment license;

c/ Copies of operation internal rules and plan of the fishing port;

d/ A copy of the decision on establishment of the fishing port management board;

e/ A certified copy of the written record of acceptance of the complete construction of the fishing port for operation commencement, enclosed with completed construction drawings;

f/ A certified copy of the notice to mariners on port fairways and water area in front of the wharf;

g/ A certified copy of the written record of inspection and certification of the implementation of contents of the environmental impact assessment report and fulfillment of requirements stated in the decision approving such report;

h/ A certified copy of the written record of acceptance of fire prevention and fighting devices.

2. Within seven (7) working days after receiving a complete and valid dossier, the competent agency shall consider and decide on the announcement of the opening of the fishing port. In case of refusal to announce the opening of the fishing port, it shall reply in writing, clearly stating the reason.

3. The agency competent to announce the opening of a fishing port shall announce the contents of the decision on announcing the opening of the fishing port in the central and local mass media.

Article 8. Order and procedures for announcing the closure of a fishing port

1. The director or investor of a fishing port files a written request for closure of a fishing port, made according to a set form, or related organizations and individuals file a written request for closure of a fishing port with a competent state agency.

2. Within seven (7) working days after receiving a written request, the competent agency shall consider the request and reply in writing to the requester(s).

3. The agency competent to announce the closure of a fishing port shall notify the contents of the decision on announcing the closure of the fishing port in the central and local mass media.

Article 9. Agencies competent to announce

the opening or closure of fishing ports

1. The Ministry of Agriculture and Rural Development announces the opening of class-I fishing ports.

2. Provincial-level People's Committees announce the opening of class-II fishing ports.

3. An agency competent to announce the opening of a fishing port is competent to announce the closure of such port.

Article 10. Contents of the announcement on the opening of a fishing port

1. Name and class of the fishing port;
2. Address and coordinates of the fishing port;
3. Starting point(s), depth and width of port fairway(s);
4. Depth of the mooring area and length of the wharf;
5. The largest size and type of fishing ships that can enter the port;
6. Goods-handling capacity and fishing services of the fishing port;
7. Time of commencement of operation of the fishing port.

Article 11. Contents of announcement of the closure of a fishing port

1. Name and class of the fishing port;

2. Address and coordinates of the fishing port;

3. Reason(s) for the closure;

4. Time of closure.

Article 12. Provisions applicable to Vietnamese fishing ships entering and leaving fishing ports

1. At least one hour before entering a fishing port, the master or helmsman of a fishing ship shall notify the fishing port management board of the registration number, size and type of the ship, required services and other requirements (if any).

2. Upon entering a fishing port, the master or helmsman of a fishing ship shall follow the instructions of the management board and internal rules of the fishing port.

3. When leaving the port, the master or helmsman of the fishing ship shall notify in advance the fishing port management board of the departure.

Article 13. Provisions applicable to foreign fishing ships entering and leaving fishing ports

1. Foreign fishing ships may only enter fishing ports stated in their fishery operation permits.

2. At least 24 hours before entering a fishing port, the master of a fishing ship shall notify by radio (or other communications media) the

state agencies upon request.

6. In case of occurrence of a storm or tropical depression:

a/ To post watches and put up signs warning the storm or tropical depression in accordance with regulations.

b/ To notify the weather developments through the public addressing system of the port for every person to actively protect themselves.

c/ To notify the list of fishing ships currently anchored or moored in the port water area and persons on board these ships to the local command board for flood and storm prevention and control and search and rescue.

7. To submit to the inspection, examination, surveillance and handling by competent agencies of security, order, food safety and environmental protection in the fishing port and of other relevant sectors.

8. When a foreign ship arrives at the fishing port, the port management board shall promptly notify it to local functional agencies for coordinated management.

9. The fishing port management board has the rights and powers:

a/ To lease infrastructure facilities to organizations and individuals for fishery production, business and services in the port area in accordance with law and the approved fishing port operation plan;

b/ To disallow persons and fishing ships that fail to comply with the internal rules of the fishing port to enter the port, or force them to leave the port;

c/ To refuse to lease infrastructure facilities to organizations and individuals engaged in fishery production, business or services in the port area that fail to comply with the internal rules of the fishing port and signed contracts, or force them to leave the port area;

d/ To collect charges for services provided at the port in accordance with law;

e/ To handle or request local functional agencies to handle matters and cases so as to assure security, order, food safety, environmental protection and fire and explosion prevention and fighting in the fishing port.

Article 15. Provision of fishing logistic services at fishing ports

1. Fishing logistic service providers shall sign contracts to rent infrastructure facilities in port areas with fishing port management boards; pay law-prescribed charges and fees; and observe internal rules of fishing ports and relevant regulations and the instructions of fishing port management boards in case of necessity.

2. Depending on each type of service, fishing logistic service providers shall assure their production or business conditions as prescribed by law and satisfy requirements on environmental protection, food safety and fire

and explosion prevention and fighting.

3. Fishing logistic service providers shall coordinate with fishing port management boards in assuring social security, order and safety, environmental protection and fire and explosion prevention and fighting in fishing port areas.

Article 16. Fishing port use charge

1. This charge complies with the current law on charges and fees.

2. Charge payers, charge tariff, and the regime of charge collection, remittance and use management of fishing port charges and fees are decided by provincial-level People's Councils and guided by the Ministry of Finance.

Chapter III

STORM SHELTER ZONES FOR FISHING SHIPS

Article 17. Management of storm shelter zones

1. When serving as places of refuge from storms for fishing ships, storm shelter zones are managed by local steering committees for flood and storm prevention and control and search and rescue.

2. When not used as places of refuge from storms, depending on practical conditions, the management and use of storm shelter zones as fishing ports comply with the following provisions:

a/ Storm shelter zones in water areas managed by fishing ports will be assigned to fishing port management boards for management and use;

b/ Other storm shelter zones will be assigned by provincial-level People's Committees to appropriate units or organizations for management and operation;

c/ Charges will be collected in accordance with Article 16 of this Decree.

3. Organizations and individuals that are assigned to manage and use storm shelter zones for fishing ships shall work out plans and may use state budget funds for organizing the management, maintenance and repair of works in such zones.

Article 18. Rules applicable to fishing ships in storm shelter zones

1. To avoid a storm or tropical depression, fishing ships and other ships may enter storm shelter zones without having to pay a charge.

2. Masters or helmsmen of fishing ships shall, when entering storm shelter zones, obey the instructions and guidance of the steering committees for flood and storm prevention and control and search and rescue.

3. As soon as they safely anchor or moor their fishing ships, masters or helmsmen shall notify the steering committees for flood and storm prevention and control and search and rescue of names, registration numbers and

status of their ships, number of persons on board and other requirements (if any).

4. Fishing ships may leave storm shelter zones only when receiving an announcement that the storm or tropical depression is over or an order of the steering committees for flood and storm prevention and control and search and rescue.

Article 19. Announcement of the list of storm shelter zones for fishing ships

1. Competence for and time of announcement:

Before the 1st of April every year, the Ministry of Agriculture and Rural Development shall announce the list of storm shelter zones for fishing ships nationwide.

2. Contents of announcement:

a/ Names and types of storm shelter zones for fishing ships;

b/ Addresses and coordinates of storm shelter zones for fishing ships;

c/ Depth of berths;

d/ Fishing ship berthing capacity of berths;

e/ Sizes and types of fishing ship allowed to enter storm shelter zones for fishing ships;

f/ Positions of entrance, directions and length of fairways;

g/ Contact telephone numbers and radio frequencies of standing bodies of local steering

committees for flood and storm prevention and control and search and rescue at storm shelter zones for fishing ships.

3. Forms of announcement:

a/ Sending of written announcements to People's Committees of coastal provinces and cities;

b/ Announcement in the mass media.

Chapter IV

RESPONSIBILITIES OF STATE MANAGEMENT AGENCIES

Article 20. State management of fishing ports and storm shelter zones

1. Formulating and implementing master plans, plans and policies on development of fishing ports and storm shelter zones for fishing ships.

2. Announcing the opening and closure of fishing ports; announcing the list of storm shelter zones for fishing ships.

3. Promulgating standards and technical regulations applicable to fishing ports and storm shelter zones for fishing ships; and the model regulation on management of fishing ports and storm shelter zones for fishing ships.

4. Surveying and inspecting fishing ports and storm shelter zones for fishing ships in their observance of regulations on assurance of safety of works and compliance with

regulations on environmental protection, food safety and fire and explosion prevention and fighting and relevant regulations.

5. Conducting communication, education and training in the management of fishing ports and storm shelter zones for fishing ships, and professional knowledge and skills for assurance of safety for officials and employees of fishing ports and storm shelter zones for fishing ships and fishermen in coastal localities.

Article 21. Responsibilities of the Ministry of Agriculture and Rural Development

1. To uniformly manage fishing ports and storm shelter zones for fishing ships nationwide.

2. To announce the opening and closure of fishing ports according to its competence; and announce the list of storm shelter zones for fishing ships nationwide.

3. To guide and inspect operations of fishing ports and storm shelter zones for fishing ships nationwide.

4. To elaborate and promulgate standards and technical regulations applicable to fishing ports and storm shelter zones for fishing ships; to develop a database and information on management of fishing ports and storm shelter zones for fishing ships nationwide.

5. To train in management skills for managerial staff of fishing ports and storm

shelter zones for fishing ships and in safety assurance for fishermen in coastal localities.

6. To promulgate a model regulation on management of fishing ports and storm shelter zones for fishing ships, and forms for use in the management of fishing ports and storm shelter zones for fishing ships as prescribed.

Article 22. Responsibilities of People's Committees of coastal provinces and centrally run cities

1. To direct functional agencies in managing, guiding and inspecting operations of fishing ports, fish harbors and storm shelter zones in their localities.

2. To announce the opening of fishing ports and storm shelter zones for fishing ships according to their competence.

3. To provide organizations and individuals with guidance on regulations on construction investment, operation management and operation of fishing ports, fish harbors and storm shelter zones for fishing ships; to work out plans on protection, repair, maintenance and upgrading of infrastructure facilities of fishing ports, fish wharves and storm shelter zones; and elaborate internal rules on operation of fishing ports, fish wharves and storm shelter zones for fishing ships.

4. To direct functional agencies in elaborating a regulation on coordination among related local sectors and departments in

assuring security, order, environmental protection, fire and explosion prevention and control in fishing ports, fish wharves and storm shelter zones.

5. To provide specific guidance on payers, rates and percentage of remittance by fishing ports of charges for services provided at fishing ports; to allocate local budgets funds for construction, repair and maintenance of works eligible for state budget investment and operations of management boards of fishing ports and storm shelter zones which are non-business units; and to allocate land areas for construction of planned fishing ports and storm shelter zones for fishing ships.

6. Pursuant to this Decree and based on practical conditions of their localities, to promulgate regulations on construction and management of local fish wharves and mobilize investment capital and participation of all economic sectors and communities in the management of these wharves.

Article 23. Responsibilities of related ministries and sectors

The Ministry of Transport, the Ministry of Public Security, the Ministry of Construction and related ministries and sectors shall, within their functions and tasks, coordinate with the Ministry of Agriculture and Rural Development and People's Committees of coastal provinces and centrally run cities in guiding the assurance of maritime safety, waterway navigation safety,

security and order at fishing ports, fish wharves and storm shelter zones for fishing ships; directing and guiding their attached functional agencies in coordinated surveillance, inspection and handling of violations of law; and guiding localities in elaborating rates and regime of collection, management and use of charges and fees of fishing ports.

Chapter V

IMPLEMENTATION PROVISIONS

Article 24. Effect

1. This Decree takes effect on December 1, 2012.

2. Fishing ports and storm shelter zones which have commenced their operation before the effective date of this Decree are not required to comply with the provisions on the order and procedures for opening announcement.

Article 25. Responsibility for implementation

Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of People's Committees of coastal provinces and centrally run cities shall implement this Decree.-

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG