

Circular No. 43/2012/TT-BCT of December 27, 2012, providing the management of planning, investment in the construction of hydropower projects,

and operation of hydropower works

Pursuant to Electricity Law No. 28/2004/QH11 of December 3, 2004;

Pursuant to Construction Law No. 16/2003/QH11 of November 26, 2003;

Pursuant to Investment Law No. 59/2005/QH11 of November 29, 2005;

Pursuant to the National Assembly's Law No. 38/2009/QH12 of June 19, 2009 Amending and Supplementing a Number of Laws Concerning Capital Construction Investment;

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;

In furtherance of the Prime Minister's

direction in Document No. 888/TTg- KTN of May 31, 2010, on intensifying the management of hydropower projects;

At the proposal of the General Director of the General Department of Energy;

The Minister of Industry and Trade promulgates the Circular providing the management of planning, investment in the construction of hydropower projects, and operation of hydropower works.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation and subjects of application

1. This Circular provides a number of contents on management of hydropower planning, investment in the construction of hydropower projects, and operation of hydropower works in the Vietnamese territory.

2. This Circular applies to organizations and individuals involved in hydropower planning, investment in the construction of hydropower projects, and operation of hydropower works in the Vietnamese territory.

Article 2. Interpretation of terms

1. Cascade hydropower master plan means the master plan to identify hydropower projects which can be invested in and constructed with an installed capacity of over 35 MW on a river or a system of rivers of the same river basin.

2. Small-scaled hydropower master plan

means the master plan to identify hydropower projects which can be invested in and built with an installed capacity of up to 30 MW on rivers and streams of river basins.

3. Pumped-storage hydropower master plan means the master plan to identify locations for building pumped-storage hydropower plants to supply the peak power output of the load diagram of the national electricity system.

4. Multi-purpose hydropower project means a hydropower project which, besides its main duty of generating electricity, also regulates the addition to the flow in the dry season and/or reduce flood to serve socio-economic development in the downstream area.

Chapter II

MANAGEMENT OF HYDROPOWER MASTER PLANS

Article 3. Hydropower master plans

1. Hydropower master plans include cascade hydropower master plan, pumped-storage hydropower master plan and small-scaled hydropower master plan.

2. A cascade hydropower master plan is formulated uniformly for every river basin not divided by administrative boundaries. For river basins with approved cascade hydropower master plans on the main rivers, cascade hydropower master plans may be formulated for branch rivers, but must conform with the cascade hydropower master plan on the main river.

3. A pumped-storage hydropower master plan is formulated for the whole country or

each region or area of the national electricity system.

4. A small-scale hydropower master plan is formulated for each province or centrally run city (below referred collectively to as province).

Article 4. Principles of hydropower planning

1. To assure compliance with current laws on construction, water resources, environmental protection, forest protection and development, and other relevant regulations.

2. To assure compliance with approved socio-economic development, water resource, irrigation and electricity development master plans and other relevant strategies and master plans.

3. Small-scaled hydropower master plans must conform to the approved cascade hydropower master plans and pumped-storage hydropower master plans; pumped-storage hydropower master plans must conform to approved cascade hydropower master plans.

Article 5. Formulation of hydropower master plans

1. A hydropower master plan is formulated once and can be adjusted and supplemented to suit the socio-economic development situation in each period.

2. Hydropower master plans must be formulated by qualified consultancy agencies as prescribed by law.

3. Competence to organize formulation of hydropower master plans:

a/ The General Department of Energy shall organize the formulation of national cascade hydropower master plans and pumped-storage hydropower master plans.

b/ Provincial-level People's Committees shall organize the formulation of local small-scaled hydropower master plans. For a small-scale hydropower project lying in two or more provinces, the provincial-level People's Committee of the locality where the hydropower plant is to be located shall consult other related provincial-level People's Committees for organizing the formulation of the master plan. If the latter disagree, the former shall report such in writing to the Ministry of Industry and Trade for consideration and settlement.

Article 6. Contents and dossiers of hydropower master plans

1. The contents of cascade hydropower master plans and small-scaled hydropower master plans comply with Appendix 1 to this Circular and must satisfy the following requirements:

a/ To take into account the approved local socio-economic development master plan and orientations; the current situation and approved master plans on relevant water resource exploitation and use projects in the basin.

b/ To investigate, survey and assess all the natural conditions (topography, geology, meteorology, hydrography, tectonic earthquake, people's lives, socio-economic conditions,

transport, power grid works, etc. in the planning area.

c/ To assess the conformity and impacts of proposed hydropower projects with/on other relevant master plans and projects in the basin.

d/ To study operation plans and scale; to assess the economic and energy benefits of the proposed projects for proposing planning alternatives.

e/ To conduct strategic environmental assessment under the Government's Decree No. 29/2011/ND-CP of April 18, 2011, on strategic environmental assessment, environmental impact assessment and environmental protection commitments (referred to as Decree No. 29/2011/ND-CP).

f/ To survey and preliminarily assess the impacts of projects proposed in the master plans on population, land and water exploitation and use demands in the downstream area. Except for multi-purpose hydropower projects, other projects proposed in the master plan must neither occupy more than 10 ha of land of different categories nor relocate more than one household per MW of installed capacity.

g/ To preliminarily assess and propose solutions to minimizing negative socio-environmental impacts of the projects, such as release of minimum flow to the downstream area; compensation, support, relocation of inhabitants and resettlement; replanting of forests which have already been used for the projects.

h/ To arrange proposed projects in the order of priority for investment construction on the

basis of techno-economic norms and socio-environmental impacts of each project.

2. The contents of a pumped-storage hydropower master plan cover:

a/ The contents specified in Clause 1 of this Article.

b/ The updated results of forecasts about electricity supply-demand and the load diagrams of the electricity system in the approved national electricity development planning researches; updated status of operation of existing power plants and schedule of construction of relevant power projects of the electricity system.

c/ Analysis and assessment of the necessity and sizes of pumped-storage hydropower projects in the peak electricity generation of the load diagram of the national electricity system.

3. A hydropower planning dossier comprises the printed master plan with the stamp of the planning consultancy agency as prescribed and a CD storing the electronic files of all planning contents specified in Clauses 1 and 2 of this Article (below referred to as hydropower planning dossier set).

Article 7. Appraisal and approval of hydropower master plans

1. The agencies organizing the formulation of hydropower master plans defined in Clause 3, Article 5 of this Circular shall submit the master plans to the Ministry of Industry and Trade for consideration and approval, 1 dossier set for each hydropower master plan.

2. Within 5 working days after receiving a

submission report and the hydropower planning dossier set, the Ministry of Industry and Trade shall organize the appraisal and send an official letter enclosed with one copy of the printed planning dossier set to related agencies and units for comment as prescribed.

3. The agencies and units consulted on hydropower master plans stated in Clause 2 of this Article include:

a/ For cascade hydropower master plans and pumped-storage hydropower master plans: The Ministry of Natural Resources and Environment, the Ministry of Agriculture and Rural Development, the Ministry of Construction, the Ministry of Transport, the Ministry of National Defense, provincial-level People's Committees in the project areas and other related agencies and units (if necessary).

b/ For small-scale hydropower master plans: The Ministry of Natural Resources and Environment, the Ministry of Agriculture and Rural Development and other related agencies and units (if necessary).

4. Contents of appraisal and comments on hydropower master plans must include:

a/ Conformity of the proposed hydropower master plan with existing projects and works as well as other relevant approved strategies and master plans.

b/ Reliability and satisfaction of quality requirements of the documents and data used for the planning.

c/ The technical conformity and economic

efficiency of the cascade system and each project proposed in the master plan.

d/ Assessment of impacts and measures to minimize negative socio-environmental impacts of the projects proposed in the master plan.

e/ Conformity of the investment and construction schedules of the projects proposed in the master plan with the current status of the local power grid and electricity development master plan.

5. The agencies and units consulted on hydropower master plans shall issue replies to the Ministry of Industry and Trade within the time limit specified in the consultation document. Past this time limit, consulted agencies and units giving no comments will be considered agreeing with the planning contents.

6. After obtaining the appraisal results and written comments of related agencies and units on the hydropower master plan, the Ministry of Industry and Trade shall, within 5 working days, send a document summarizing appraisal opinions to the master plan-submitting agency for coordination with the planning consultancy agency in finalizing the hydropower planning contents and dossier.

7. The master plan-submitting agency shall send a report on its explanation and absorption of the appraisal opinions stated in Clause 6 of this Article to the Ministry of Industry and Trade, enclosed with the master plan dossier with revised and added contents, for consideration and approval of the hydropower master plan.

Article 8. Approval of hydropower master plans

1. The approved hydropower master plan must satisfy the following conditions:

a/ To be enclosed with adequate documents and contain the planning contents as prescribed.

b/ To conform with relevant strategies, master plans, projects and works.

c/ To ensure the quality and accuracy of documents, data, calculation results and analyses in the master plan.

d/ To rationally exploit the hydropower sources in the researched basin, minimize negative socio-environmental impacts and generate optimum benefits for the society and the State.

2. Within 10 working days after receiving the documents explaining and absorbing the appraisal opinions and the master plan dossier stated in Clause 7, Article 7 of this Circular, the Ministry of Industry and Trade shall consider and issue a decision to approve the hydropower master plan if it satisfies the conditions defined in Clause 8 of this Article or a written reply stating the reason why the master plan is not or has not yet been approved to the master plan-submitting agency.

3. The principal contents of approval of a hydropower master plan include:

a/ Information on locations projected for construction of works (geographical coordinates, names of commune, district and province; names of river and stream), operation diagram, tasks and major technical parameters

(the basin area up to the F_{iv} dam line, normal rising water level, dead water level, flood prevention capacity W_{pl} (if any), the plant's minimum downstream water level $MNHL_{min}$, installed capacity (N_{im}) and annual average power output E_p) of the projects.

b/ Techno-economic and socio-environmental issues of the projects in need of further attention during the construction investment study.

c/ The projected schedule or order of priority for the construction of projects.

4. Within 3 working days after a hydropower master plan is approved, the Ministry of Industry and Trade shall send 1 original approval decision enclosed with 1 copy of the complete master plan dossier to the provincial-level People's Committee and Department of Industry and Trade of the locality where the hydropower project is located; and send 1 original approval decision to Vietnam Electricity Group and each of related ministries, sectors, agencies and units.

Article 9. Adjustment and supplementation of hydropower master plans

1. A hydropower master plan is adjusted and supplemented in the following cases:

a/ The contents of approval of the master plan specified at Point a, Clause 3, Article 8 of this Circular are adjusted, for projects within the approved hydropower master plan, aiming to raise economic efficiency, minimize negative socio-environmental impacts or conform with other relevant master plans.

b/ Projects are added to the approved hydropower master plan.

2. The adjustment and supplementation of a hydropower master plan is carried out as follows:

a/ For projects specified at Point a, Clause 1 of this Article: The project investor shall submit to the Ministry of Industry and Trade for consideration and approval adjustments to the master plan, enclosed with a master plan adjustment report with contents specified in Article 6 of this Circular or the dossier of the work construction investment project as prescribed. The appraisal and approval of master plan adjustments comply with Clauses 2, 4, 6 and 7 of Article 7 and Article 8 of this Circular. The consultation (if necessary) and replies of related agencies and units on master plan adjustments to a project comply with Clauses 2, 3 and 5 of Article 7 of this Circular.

b/ For projects specified at Point b, Clause 1 of this Article: The provisions of Articles 4, 5, 6, 7 and 8 of this Circular must be complied with.

Article 10. Publication of hydropower master plans

1. Hydropower master plans must be published within 30 days after they are approved for related agencies, units and individuals to know and implement.

2. The Ministry of Industry and Trade shall publicize, guide, monitor and inspect the implementation of the approved national cascade hydropower master plan and pumped-storage hydropower master plan.

3. Provincial-level People's Committees shall publicize, guide, monitor and inspect the implementation of approved small-scaled hydropower projects in their respective provinces.

Article 11. Fund for formulation, appraisal for approval and publicization of hydropower master plans

1. Funds for the formulation, appraisal for approval and publication of hydropower master plans (including adjusted and supplemented ones) are included in annual budget plans and other lawfully mobilized capital sources.

2. The Ministry of Industry and Trade shall register for funds from the central budget under annual plans for the formulation, appraisal for approval and publicization of cascade hydropower master plans and pumped-storage hydropower master plans. Provincial-level People's Committees shall register for funds from provincial budgets under annual plans for the formulation, appraisal for approval and publicization of small-scale hydropower master plans in their respective provinces.

3. The management and use of funds prescribed in Clause 1 of this Article comply with relevant laws and regulations.

4. Enterprises are encouraged to fund and participate in organizing the formulation of hydropower master plans for development of hydropower sources after getting the approval of state agencies in charge of organizing the formulation of master plans specified in Clause 3, Article 5 of this Circular. These funds are

accounted in their production and business costs, but must comply with current regulations on unit prices and expense norms for electricity development planning.

Chapter III

MANAGEMENT OF INVESTMENT IN AND CONSTRUCTION OF HYDROPOWER PROJECTS

Article 12. Principles of management of investment in and construction of hydropower projects

1. The investment in and construction of hydropower projects must comply with the laws on investment, construction, water resources, environmental protection and other relevant laws and regulations; and comply with approved hydropower master plans and electricity development master plans.

2. If a project under a hydropower master plan is not yet included in an electricity development master plan or has not yet conformed with the electricity development master plan, the investment licensing agency shall consult the Ministry of Industry and Trade on the project's conformity with the electricity development master plan before considering and permitting the investment.

3. Any change in the legal status of the investor, size, tasks and schedule of a hydropower project in the course of investment and construction is subject to prior written permission of a competent state agency.

Article 13. Requirements on hydropower

project investors

1. Being enterprises of economic sectors established in accordance with the Enterprise Law and having the business line of investment in and construction of hydropower projects.

2. Having sufficient financial capability for implementing projects: The investor shall ensure an equity capital of at least 30% of the total project investment and receive written commitments of credit institutions, financial institutions or banks to lend the remaining investment capital amount. The investor shall report to the agency competent to select investors specified in Clause 2, Article 15 of this Circular on the plan to arrange capital sources for the project according to the project implementation schedule.

3. Not being an investor of another project which is delayed or implemented 12 months behind the schedule indicated in its investment certificate, except projects allowed for suspension or rescheduling of implementation prescribed in the investment law. The investor shall provide copies of dossiers related to the projects it has implemented in the capacity as investor to the investment licensing agency for consideration, and take responsibility for the accuracy of such information.

Article 14. Plans for investment in and construction of hydropower projects

1. Plans for investment in and construction of hydropower projects (covering the time of construction commencement, electricity generation and completion) serve as a basis for permitting the implementation of projects.

2. Plans for investment in and construction of hydropower projects must conform with:

a/ The approved electricity development master plan.

b/ The socio-economic development situation, load and related electricity grids in the locality.

3. Annually before November 30, provincial-level People's Committees shall submit to the Ministry of Industry and Trade for consideration and approval plans on investment in and construction of hydropower projects in their localities in the following year. For a project located in two or more provinces, the provincial-level People's Committee of the locality where the hydropower plant is located shall assume the prime responsibility for, after consulting the People's Committees of the related provinces, submitting such plan to the Ministry of Industry and Trade for approval.

Article 15. Selection of hydropower project investors

1. The selection of hydropower project investors must ensure:

a/ Compliance with current laws on investment, bidding and other relevant regulations.

b/ The selected investors have the highest capabilities and experience for implementation of investment projects strictly according to schedule, ensuring their quality and minimizing their negative socio-environmental impacts.

2. The selection of hydropower project investors is carried out as follows:

a/ For projects on the list of power sources in the national electricity development master plan for which investors are not yet identified: To comply with the law on investment and the Prime Minister's decision approving the national electricity development master plan. The agencies competent to select investors shall consult related ministries, sectors and localities before reporting the project investors to competent authorities for approval.

b/ For other projects: Provincial-level People's Committees of localities where the projects are located shall organize the selection of investors; consult the Ministry of Industry and Trade on the projects' conformity with the master plans and the investors' satisfaction of requirements; and consult other related agencies for consideration and approval.

3. If a project lies in more than one province, the provincial-level People's Committee of the locality where the hydropower plant is located shall assume the prime responsibility for, after consulting the Ministry of Industry and Trade and related provincial-level People's Committees and other agencies strictly according to regulations, the selection of project investors.

4. Consulted agencies mentioned at Points a and b, Clause 2 of this Article shall reply the consulting agency within 10 working days after receiving written requests for comments. Past the above-said time limit, if giving no comments, the consulted agencies will be considered agreeing with the consulting agency on the selection of project investors.

5. It is encouraged to select one investor for implementing a group of hydropower projects which are inter-related in regulating the flow or commonly use the power grid works transmitting the capacities of hydropower plants.

6. If registering for investment and satisfying the prescribed requirements, enterprises which have invested funds and participated in organizing the formulation of hydropower master plans specified in Clause 4, Article 8 of this Circular will be given priority in the consideration and assignment of investors for a number of hydropower projects in the planning research.

Article 16. Formulation of investment projects on construction of hydropower works

1. Only after they are permitted by competent agencies for investment in accordance with current regulations, may hydropower project investors organize the formulation of investment projects to construct hydropower works (below referred to as investment projects for short).

2. The contents of an investment project must comply with the law on management of investment projects to construct works and cover the following:

a/ Investigation, survey and thorough assessment of natural conditions (topography, geology, meteorology, hydrology and tectonic earthquake), people's lives, socio-economic conditions, transport, power grid works, etc. in the project area.

b/ Current status and master plan on exploitation and use of relevant water resources

in the basin, which serve as a basis for calculating and determining hydrological peculiarities for designing and the flow-water level relationship in the researched lines.

c/ Calculation and determination of the minimum flow as prescribed in the Government's Decree No. 112/2008/ND-CP of October 20, 2008, on management, protection and integrated exploitation of natural resources and environment of hydropower and irrigation reservoirs (Decree No. 112/2008/ND-CP) and guided by the Ministry of Natural Resources and Environment; construction measures to ensure the discharge of minimum flow for downstream areas.

d/ Analysis and comparison of plans to select work lines, normal water rise level, dead water level, installed capacity N_{im} , the number of generator units, structure of the closure dams, size and structure of spillways, energy consumption solutions, plan for connection of the hydropower plant with the electricity system, ensuring higher investment efficiency and minimizing negative socio-environmental impacts.

e/ Assessment of the project's impacts on safety, electricity volume and exploitation capacity of adjacent works and projects in the basin which have been approved by competent authorities.

f/ Calculation for stable safety, durability, anti-leaking, hydraulic regime, etc. of such main work items as closure dams, spillways, intake gates, tunnels, water canals, pressure tanks, pressure-regulating tower, pressure tubes, hydropower plant, discharge canal,

foundation taluses under any working condition of the work.

g/ Arrangement of adequate equipment to observe the work's operation and foundation under National Technical Regulation QCVN 04-05:2012/BNNPTNT (Irrigation works - Major regulations on design) and National Standard TCVN 8215:2009 (Irrigation works - Major regulations on the layout of equipment for observation of key work complexes).

h/ Planning of the connection of the hydropower plant with the national electricity system, ensuring conformity with the approved electricity development master plan and master plan on connection of hydropower plants to the national electricity system; with the written agreement of Vietnam Electricity Group on the technical connection plan, and measuring, control, security and other related equipment of electricity connection works.

i/ Planning of transport to serve the construction and operation of the hydropower work, ensuring conformity with the local transport development master plan; planning of construction work and schedule, ensuring safety and efficiency and meeting the electricity generation schedule as prescribed.

j/ Thorough assessment of the project's impacts on the local environment as prescribed in Decree No. 29/2011/ND-CP, with specific investigation of areas of land of different categories (residential land, rice land, subsidiary crop land, protection forest land, special-use forest land, production forest land, river and stream land, etc.) occupied by the hydropower work, works serving the work's construction

and operation, resettlement areas, areas for replanting forests in compensation for forest areas used by the project.

k/ The written agreement of relevant competent agencies on the change of the use purposes of land categories for the project.

l/ Consultation of related provincial-level People's Committees on solutions to minimizing negative socio-environmental impacts such as compensation, support, population relocation, resettlement; replanting of forests to be used for the project; restoration of the land surface after the construction is completed.

m/ Assessment of other combined utilities of the project such as flood alleviation, creation of water sources for downstream areas; development of tourism, waterway transport and aquaculture; the number of persons to be employed in the course of investment, construction and operation of the work.

n/ A scheme on allocation of investment capital according to the schedule of construction of the work; analysis and assessment of financial-economic efficiency of the project.

Article 17. Appraisal and approval of hydropower investment projects

1. The appraisal and approval of hydropower investment projects comply with the law on management of investment projects on the construction of works.

2. The key project-appraising agency shall consult the sector-managing agency, the construction state-management agency and other related agencies on the investment project

and base designs for appraisal of the project strictly according to regulations.

3. If the investment project study results contain proposals different from the project's approved master plan contents prescribed at Point a, Clause 10, Article 7 of this Circular, the investor shall propose the Ministry of Industry and Trade to consider and approve the adjustment of the hydropower master plan as provided at Point a, Clause 1, and Point a, Clause 2 of Article 8 of this Circular before approving the investment project.

4. The appraisal contents and comments of related agencies and units defined in Clause 2 of this Article on the investment project or base design must cover:

a/ The quality and reliability of meteorological, hydrological, topographical, and geological documents and data used in the calculation of the project design.

b/ The conformity of the general layout of the work, structure and principal parameters of the reservoirs, dams, spillways, energy consumption works, water intake gates, tunnels, conducting canals, pressure tubes, pressure tanks, pressure-regulating towers, water discharge canals, dug sloping taluses, hydraulic mechanical equipment, electrical equipment, etc.

c/ The conformity of energy parameters (installed capacity N_{pm} , guaranty capacity N_{db} , annual average electricity volume E_o) and the plan on connection with the electricity system of the project.

d/ The conformity of the project design with applicable regulations and standards on

construction, environment and fire prevention and fighting.

5. The hydropower project investment decider can approve the investment project only after competent state agencies approve or agree on the following contents:

a/ The report on assessment of environmental impacts or the written commitment to environmental protection as prescribed.

b/ The plan or project on compensation, support, relocation of inhabitants and resettlement as prescribed.

6. After approving the investment project, the investor shall send 1 complete set of the dossier (including 1 printed dossier and 1 CD containing the dossier's electronic file), enclosed with 1 original approval decision, to the Ministry of Industry and Trade and related provincial-level People's Committee and Department of Industry and Trade in the project area for monitoring, inspection and direction of the project implementation.

Article 18. Formulation, appraisal and approval of construction designs of hydropower works

1. Investors shall organize the formulation, appraisal and approval of technical designs (for projects requiring 3-step designing) and construction drawing designs (for projects requiring 2-step designing) of their projects under the law on management of investment projects on the construction of works, and take responsibility for the approved contents.

2. Contents of a technical design (for projects

requiring 3-step designing) or a construction drawing design (for projects requiring 2-step designing) of a project must conform to the base design in the approved investment project. In case of any changes in contents, the investor shall consult related agencies as provided in Clause 2, Article 16 of this Circular on the changed contents for approval of adjustment of the investment project before approving the technical design or construction drawing design.

Article 19. Commencement of construction of hydropower works

Project investors may commence the construction of works only when all the conditions specified in Article 72 of the Construction Law and by current relevant laws are fully met.

Article 20. Construction of works for electricity connection and transmission of capacities of hydropower plants

The construction of works for electricity connection and transmission of capacities of hydropower plants complies with the Electricity Law and relevant documents guiding and detailing the Electricity Law. Particularly for hydropower projects with an installed capacity of 30 MW or under, investors may invest in the construction of lines for connecting the power plants to electricity sale locations after reaching agreement with electricity purchasers. In case of such agreement cannot be reached, investors shall report it to the Ministry of Industry and Trade for consideration and approval before construction. Related investment expenses

are allowed to be included in electricity sale prices as prescribed.

Article 21. Management of construction of hydropower works

1. The quality management of hydropower works complies with the law on quality management of construction works, with special attention paid to the management of closure dams, spillways, valves of spillways, via-dam body discharge gates, intake gates, water-conducting tunnels, pressure tubes, gutter bridges on the water canals and hydropower plants.

2. Other contents of management of the construction of hydropower works comply with the current law on management of investment projects on the construction of works.

3. The inspection, assessment and certification of satisfaction of load-bearing safety conditions and certification of construction quality conformity comply with current regulations on management of investment projects on the construction of works and quality management of construction works, of which the inspection and certification of satisfaction of the load-bearing safety conditions are compulsory for construction items before they are put to use in case the loss of load-bearing capacity may cause catastrophes to humans, property and the environment (including closure dams, spillways, spillway valves, via-dam body discharge gates, water intake gates, water tunnels, pressure tubes, gutter bridges on the water canals, hydropower plants...) of hydropower works.

Article 22. Supervision and assessment of construction of hydropower projects

The supervision and assessment of the investment in hydropower projects comply with the Government's Decree No. 113/2009/ND-CP of December 15, 2009, on supervision and assessment of investment; the Prime Minister's Decision No. 80/2005/QĐ-TTg of April 18, 2005, promulgating the Regulation on community supervision of investment; the Ministry of Planning and Investment's Circulars No. 13/2010/TT-BKH of June 2, 2010, issuing the forms of investment supervision and assessment reports, No. 22/2010/TT-BKH of December 2, 2010, prescribing expenditure norms for investment supervision and assessment, and No. 23/2010/TT-BKH of December 13, 2010, prescribing the capability conditions of consultancy organizations and individuals for assessing investment projects, and relevant regulations.

Article 23. Handling of delayed hydropower projects

1. For hydropower projects which have been granted investment permits or investment certificates, if after 12 months the investors fail to implement or are incapable of implementing them according to set schedule (excluding projects allowed for suspension or rescheduling of implementation), the projects must be withdrawn for assignment to other investors in accordance with the law on investment.

2. The assignment of projects to other investors is carried out as follows:

a/ For projects under the national electricity

development master plan: The provincial-level People's Committee of the locality where the project is located shall report it to the Ministry of Industry and Trade for submission to the Prime Minister for consideration and decision.

b/ For other projects: The provincial-level People's Committee shall decide to withdraw and select another investor according to current regulations and relevant contents prescribed in Article 14 of this Circular.

Chapter IV

MANAGEMENT OF OPERATION OF HYDROPOWER WORKS

Article 24. Hydropower reservoir operation process

1. The hydropower reservoir operation process must be approved by competent authorities before the reservoir stores water for the first time, based on the investment research results and construction design, strictly according to the Government's Decree No. 112/2008/ND-CP and the Prime Minister's Decision No. 285/2006/QĐ-TTg of December 25, 2006, on contents of the competence to promulgate, and organize the implementation of, hydropower reservoir operation processes.

2. The reservoir operation process must be primarily developed by the project investor in coordination with appropriate consultancy agencies having the function of designing hydropower projects.

3. The reservoir operation process must

satisfy the following requirements:

a/ Safety for the work with regard to all floods smaller or equal to the work inspection flood as prescribed.

b/ Operation, regulation and flood discharge to ensure safety for downstream areas.

c/ Fulfillment of all tasks of the project.

d/ Observance of the approved inter-reservoir operation process (if any).

e/ Minimization of negative socio-environmental impacts of the project.

f/ Higher efficiency of hydropower exploitation of the work.

4. The principal contents of a hydropower reservoir operation process are prescribed in Appendix 2 to this Circular.

5. Related organizations and individuals shall comply with the reservoir operation process approved by competent authorities, paying special attention to the implementation of regulations on preparations for flood prevention and fighting; operation of flood discharge and electricity generation; release of minimum flow for downstream areas; and the prescribed coordination, information and reporting regimes.

6. Quarterly in dry seasons and monthly in flood seasons, hydropower dams owners shall send reports on the reservoir operation to the Ministry of Industry and Trade, the Ministry of Natural Resources and Environment, and provincial-level People's Committees and Departments of Industry and Trade in the project areas.

Article 25. Operation of hydropower plants in the national electricity system

1. Before conducting the commercial operation, project investors shall obtain an electricity activity permit as provided by the Electricity Law and the certification of implementation of environmental protection works and measures as provided by Decree No. 29/2011/ND-CP.

2. In the course of generating electricity into the national electricity grids, hydropower plant exploitation-managing units shall comply with the operation modes and command and regulation orders of electricity system-regulating units; comply with the process of and technical standards on the operation of hydropower plants and electricity grids; and comply with regulations on hydropower dam safety and the reservoir operation process approved by competent authorities.

Article 26. Maintenance of hydropower works

The maintenance of hydropower works complies with the Government's Decree No. 114/2010/ND-CP of December 6, 2010, on maintenance of construction works and other relevant current regulations.

Article 27. Inspection and supervision during the operation and exploitation of hydropower works

Annually, the Ministry of Industry and Trade shall coordinate with provincial-level People's Committees in the project areas and related agencies and units in organizing the inspection

and assessment of the implementation of the reservoir operation process and electricity activity permits of hydropower works already in operation and exploitation.

Chapter V

IMPLEMENTATION PROVISIONS

Article 28. Organization of implementation

1. The General Department of Energy shall organize, guide and coordinate with the provincial-level Departments of Industry and Trade of localities where hydropower projects are located in inspecting the implementation of this Circular.

2. Provincial-level People's Committees of localities where hydropower projects are located shall direct related local agencies and units in implementing this Circular.

3. Biannually before June 20 and before December 20 of every year, provincial-level People's Committees of localities where hydropower projects are located shall report to the Ministry of Industry and Trade on the implementation of the master plan, the construction of hydropower projects and the operation of hydropower works in their localities.

Article 29. Effect

1. This Circular takes effect on February 10, 2013. The regulations and guidelines issued by the Ministry of Industry and Trade (formerly the Ministry of Industry), which are related to the management of the planning and construction of hydropower projects and operation of

hydropower works which are contrary to the provisions of this Circular, are all annulled.

2. Hydropower master plans already approved according to regulations by competent authorities before this Circular takes effect continue to be implemented.

3. The adjustment and supplementation of approved hydropower master plans comply with this Circular.

4. Any problems arising in the course of implementation of this Circular should be reported in writing to the Ministry of Industry and Trade (via the General Department of Energy) for consideration and settlement.-

For the Minister of Industry and Trade

Deputy Minister

LE DUONG QUANG