

THE GOVERNMENT**THE SOCIALIST REPUBLIC OF VIETNAM**
Independence - Freedom - Happiness**No. 109/2014/ND-CP***Hanoi, November 20, 2014***DECREE****On the Regulation on protection of seaport and navigable channel facilities^(*)***Pursuant to the December 25, 2001 Law on Organization of the Government;**Pursuant to the June 14, 2005 Maritime Code of Vietnam;**Pursuant to the June 21, 2012 Law of the Sea of Vietnam;**At the proposal of the Minister of Transport,**The Government promulgates the Decree on the Regulation on protection of seaport and navigable channel facilities.*

Article 1. To promulgate together with this Decree the Regulation on protection of seaport and navigable channel facilities.

Article 2. Effect

1. This Decree takes effect on January 5, 2015.

2. To annul the provisions on protection of seaport and navigable channel facilities of Section 5, Chapter II of the Government's Decree No. 21/2012/ND-CP of March 21, 2012, on management of seaports and navigable channels.

Article 3. Organization of implementation

1. The Minister of Transport shall assume the prime responsibility for, and coordinate with related ministries, sectors and provincial-level People's Committees in, organizing the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, and chairpersons of provincial-level People's Committees shall implement this Decree.

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG

^(*) Công Báo Nos 1021-1022 (30/11/2014)

REGULATION ON PROTECTION OF SEAPORT AND NAVIGABLE CHANNEL FACILITIES

*(Promulgated together with the Government's Decree
No. 109/2014/ND-CP of November 20, 2014)*

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Regulation prescribes the protection of seaport and navigable channel facilities in Vietnamese seaport waters and sea areas.

Article 2. Subjects of application

This Regulation applies to agencies, organizations and individuals involved in the management and protection of seaport and navigable channel facilities in Vietnamese seaport waters and sea areas.

Article 3. Interpretation of terms

In this Regulation, the terms below are construed as follows:

1. Seaport and navigable channel facilities include harbors, wharves, offshore oil and gas ports, buoy landing stages, navigable channels, maritime signs, maritime support systems, breakwater dikes, groins, sea current direction embankments and bank revetments (below collectively referred to as maritime facilities), which are built or installed in Vietnamese seaport waters and sea areas.

2. Protection of maritime facilities covers activities to ensure safety and quality of maritime facilities; measures to prevent, stop and handle acts of encroaching upon these facilities, endangering people's lives and causing damage to property of the State and people.

3. Scope of protection of maritime facilities covers facilities and corridors for protection of facilities, overhead space, underwater area and underground area which are related to the safety of facilities and maritime activities.

Article 4. Prohibited acts in the protection of maritime facilities

1. Destroying, dismantling or stealing structures, accessories, supplies, building materials and other equipment of maritime facilities.

2. Breaking, moving without permission or reducing the effect of maritime signs.

3. Blasting and detonating other explosives within seaports, seaport waters or navigable channels without permission of competent state agencies.

4. Loading or storing flammables, explosives and hazardous substances, which can corrode or damage maritime facilities, without permission of competent state agencies.

5. Discharging wastes which damage or badly affect the durability and useful life of maritime facilities.

6. Illegally dredging navigable channels within the scope of protection of navigable channels and seaport waters or dredging at variance with technical requirements accepted by competent agencies; supervising the dredging and dumping dredged mud at variance with regulations.

7. Illegally building and operating seaport facilities and other facilities in areas determined in approved seaport master plans, in navigable channels and within the scope of protection of maritime facilities; building works to reduce or negate the use of maritime facilities.

8. Fishing and exploiting marine resources in navigable channels and within the scope of protection of maritime facilities.

9. Encroaching upon the scope of protection of maritime facilities.

10. Obstructing the management, operation, use and protection of maritime facilities.

11. Operating vessels and other vehicles at variance with regulations, affecting the quality of maritime facilities.

12. Abusing positions and powers to act against regulations on protection of maritime facilities; tolerating or covering up persons who violate the law on protection of maritime facilities.

13. Other acts which affect safety in the management and operation of maritime facilities.

14. Other acts prohibited by law.

Chapter II

SCOPE OF PROTECTION OF MARITIME FACILITIES

Article 5. Scope of protection of maritime facilities

1. The scope of protection of a harbor or wharf is measured from the outermost edge of such facility to the outer limit of waters in front of it.

2. The scope of protection of an offshore oil and gas port is delimited by a safety belt with a width of 500 meters from its outermost point and the no-navigation and no-anchoring zone with a width of 2 nautical miles measured from the coordinates of such facility.

3. The scope of protection of a navigable channel is measured from the central point of the navigable channel sign sinker to both sides of the channel according to technical regulations on navigable channels, specifically as follows:

a/ At least 60 meters for a navigable channel with a width of over 210 meters and a navigable depth of over 20 meters at an estuary, at sea or an open bay entrance; a navigable channel with a width of over 230 meters and a navigable depth of over 17 meters in a river or an enclosed bay or a dug canal;

b/ At least 50 meters for a navigable channel with a width of between 190 and 210 meters and a navigable depth of between 16 and 20 meters at an estuary, at sea or an open bay entrance; a navigable channel with a width of between 210 and 230 meters and a navigable depth of between 14 and 17 meters in a river or an enclosed bay or a dug canal;

c/ At least 40 meters for a navigable channel with a width of between 140 and 190 meters and a navigable depth of between 14 and 16 meters at an estuary, at sea or an open bay entrance; a navigable channel with a width of between 150 and 210 meters and a navigable depth of between 12 and 14 meters in a river or an enclosed bay or a dug canal;

d/ At least 30 meters for a navigable channel with a width of between 80 and 140 meters and a navigable depth of between 8 and 14 meters at an estuary, at sea or an open bay entrance;

a navigable channel with a width of between 90 and 150 meters and a navigable depth of between 7 and 12 meters in a river or an enclosed bay or a dug canal;

dd/ At least 20 meters for a navigable channel with a width of under 80 meters and a navigable depth of under 8 meters at an estuary, at sea or an open bay entrance; a navigable channel with a width of under 90 meters and a navigable depth of under 7 meters in a river or an enclosed bay or a dug canal.

4. The scope of protection of a regulation facility is specifically determined as follows:

a/ For a breakwater dike or groin, this scope is at least 20 meters, 200 meters or 25 meters from its foot to the navigable channel, the sea or the coastline, respectively;

b/ For a coast protection embankment, this scope is at least 50 meters from its head to both sides; at least 20 meters from its foot to the channel; and at least 5 meters from its foot to the coastline, for residential areas, urban centers and tourist sites; or at least 25 meters for other areas;

c/ For another regulation embankment, this scope is at least 50 meters from its foot outwards.

5. The scope of protection of a maritime sign is measured from the central point of the sign (lighthouse or floating sign sinker) outwards according to technical regulations on maritime signs, specifically as follows:

a/ At least 50 meters for a lighthouse with a light beam range exceeding 20 nautical miles;

b/ At least 40 meters for a lighthouse with a light beam range of between 15 and 20 nautical miles;

c/ At least 30 meters for a lighthouse with a light beam range of between 10 and 15 nautical miles;

d/ At least 20 meters for other maritime signs.

6. The scope of protection of maritime facilities in overhead space (clearance height) and underground area shall be specifically determined for each facility based on the master plan on development of seaports and navigable channels, technical regulations and relevant regulations.

7. When announcing the commissioning of a maritime facility under Decree No. 21/2012/ND-CP of March 21, 2012, on management of seaports and navigable channels, the competent agency shall make public the scope of protection of such facility.

8. For maritime facilities commissioned before the effective date of this Decree of which the scope of protection has not yet been announced, organizations and individuals that build, and manage the operation of, such facilities shall make and implement plans on protection of such facilities before December 31, 2015, under this Regulation; and announce the scope of protection of maritime facilities under this Article and technical regulations on protection of maritime facilities.

Article 6. Determination of the scope of protection of maritime facilities in some special cases

1. In case the scope of protection of a maritime facility is identical to that of a flood and storm prevention and control or dike protection work, relevant provisions of the law on flood and storm prevention and control and law on dikes shall be complied with.

2. In case the scope of protection of a navigable channel overlaps a road or railway safety corridor or exceeds the coastward natural edge of such corridor, the scope of protection of such navigable channel reaches the natural edge.

3. In case the scope of protection of a maritime facility overlaps an internal waterway safety corridor, the scope of protection of the navigable channel reaches such safety corridor.

4. In case the scope of the protection corridor of a maritime facility overlaps the safety corridor of a road or railway bridge, aerial power line or cableway, relevant regulations on protection of safety corridors of bridges, power lines and cable lines shall be complied with.

5. In case the scope of protection of a navigable channel overlaps that of a harbor or wharf, the scope of protection of such navigable channel reaches the scope of protection of such harbor or wharf.

6. For a seaport for loading and unloading special cargoes or a regulation facility, the minimum safety corridor must comply with this Regulation, and the same time the safety distance must still comply with relevant regulations applicable to wharves for loading and unloading special cargoes or related regulation facilities.

Article 7. Principles of protection of maritime facilities

1. The construction, management of operation, repair and protection of maritime facilities must comply with relevant regulations and technical regulations issued or announced by competent state agencies.

2. When elaborating a master plan which is likely to affect maritime facilities, ministries, sectors and localities shall consult in writing the Ministry of Transport. Within 5 working days, the Ministry of Transport shall reply in writing. In case of refusal to accept the master plan, it shall clearly state the reason. Based on opinions of the Ministry of Transport, ministries, sectors and localities shall direct and guide project owners, design and construction contractors and related organizations and individuals in complying with regulations on protection of maritime facilities under this Regulation and other relevant regulations.

3. An organization or individual that constructs, and manages the operation of, a maritime facility shall work out a plan on protection of such facility which must have the following basic contents:

- a/ Determination of the scope of protection of the maritime facility under this Regulation;
- b/ Installation of maritime signs for the maritime facility;
- c/ Manpower, contact address and telephone number for the protection of the maritime facility;
- d/ Vehicles and tools to serve the protection of the maritime facility;
- dd/ Plan on protection of the maritime facility and inspection and supervision measures of the facility owner or operation manager;
- e/ Remedies to be taken when a maritime damage or accident, an incident or a violation affecting the safety in the operation of the facility occurs;
- g/ Proposed principles, mechanism and method of coordination between the facility

owner or operation manager and the port authority as well as competent agencies in the area where the facility is located.

Article 8. Supervision of the construction of works affecting the protection of maritime facilities

1. The construction of works must conform to the master plan on development of seaports and other approved relevant master plans, regulations on protection of maritime facilities and assurance of maritime safety and security and prevent environmental pollution under this Regulation and other relevant regulations.

2. In the course of construction of works affecting the protection of maritime facilities, organizations and individuals that construct, and manage the operation of, such works shall comply with regulations on supervision of construction of works in seaport waters, plans to ensure maritime safety and other provisions of this Regulation, the Government's Decree No. 21/2012/ND-CP of March 21, 2012, on management of seaports and navigable channels, Decree No. 146/2013/ND-CP of October 30, 2013, on announcement of maritime routes and division of navigation routes in the Vietnamese territorial sea, and other relevant regulations.

3. The Ministry of Transport shall organize the management and supervision of the construction of works crossing or affecting the scope of protection of maritime facilities.

4. Organizations and individuals that construct, and manage the operation of, maritime facilities shall comply with regulations on management of master plans, construction investment, operation and maintenance of facilities in order to ensure their quality and safety throughout the course of operation.

Article 9. Handling of incidents in the protection of maritime facilities

1. When detecting that maritime facilities are encroached upon or likely to become unsafe, owners and operation managers of such facilities or other persons shall immediately report such to regional port authorities for promptly taking remedies.

2. When receiving reported information, directors of port authorities shall direct owners and operation managers of maritime facilities to immediately apply necessary measures to protect such facilities, minimizing damage to them; and at the same time, notify such to competent agencies and local administrations in localities where such maritime facilities are located for support and application of necessary measures to rescue people, handle incidents and violations and protect the facilities.

3. Owners or operation managers of maritime facilities shall strictly follow instructions of port authorities and competent agencies; apply measures to rescue people, handle incidents and prevent violations under plans on protection of facilities; put up necessary warning signs to ensure safety around their facilities; and promptly remedy consequences in order to early put their facilities to safe operation as soon as possible.

4. When detecting violations or receiving information on encroachment upon or risks to the safety of maritime facilities, competent agencies and local administrations in localities where maritime facilities are located shall promptly coordinate with regional port authorities and owners or operation managers of such facilities in handling violations, rescuing people and dealing with incidents in accordance with law.

Chapter III

RESPONSIBILITIES OF AGENCIES, ORGANIZATIONS AND INDIVIDUALS IN THE
MANAGEMENT AND PROTECTION OF MARITIME FACILITIES**Article 10.** Responsibility for state management of protection of maritime facilities

1. The Government shall perform the unified state management of protection of maritime facilities.

2. The Ministry of Transport shall organize the state management of protection of maritime facilities.

3. Ministries and provincial-level People's Committees shall, within the ambit of their functions, tasks and powers, organize the state management of maritime facilities.

Article 11. Responsibilities of the Ministry of Transport

1. To revise and improve legal documents and technical regulations on protection of maritime facilities.

2. To direct related agencies and units in examining, supervising, inspecting and handling violations in the implementation of the law on protection of maritime facilities.

3. To guide the determination of the scopes of protection of maritime facilities as requested by owners or operation managers of maritime facilities.

4. To disseminate regulations on protection of maritime facilities among organizations and individuals related to maritime activities at seaports, and guide them in implementing these regulations.

5. To organize the application of information technology to management works in order to create favorable conditions for the effective protection of maritime facilities.

Article 12. Responsibilities of the Ministry of Public Security and Ministry of National Defense

1. To coordinate with the Ministry of Finance in performing the state management of the protection of maritime facilities.

2. To direct and guide their forces in inspecting and handling violations in the protection of maritime facilities according to their competence.

Article 13. Responsibilities of the Ministry of Natural Resources and Environment

1. To coordinate with the Ministry of Transport in performing the state management of the protection of maritime facilities.

2. To assume the prime responsibility for, and coordinate with provincial-level People's Committees and the Ministry of Transport in, guiding the planning and use of land, planning the use of sea areas and allocating sea areas for construction of seaports and navigable channels under the approved master plan on development of seaports.

Article 14. Responsibilities of other ministries and ministerial-level agencies

Other ministries and ministerial-level agencies shall, within the ambit of their functions, tasks and powers, coordinate with the Ministry of Transport in performing the state management of the protection of maritime facilities.

Article 15. Responsibilities of provincial-level People's Committees

1. To coordinate with the Ministry of Transport in performing the state management of the protection of maritime facilities.
2. To organize and direct the dissemination of and education about the law on protection of maritime facilities in their localities.
3. To direct their attached agencies and units in coordinating with port authorities in protecting maritime facilities and promptly handling under regulations acts encroaching upon such facilities.

Article 16. Responsibilities of owners and operation managers of maritime facilities

1. To make and implement plans on protection of maritime facilities under this Regulation.
2. To strictly observe regulations on protection and maintenance of maritime facilities in order to constantly guarantee quality of maritime facilities in a safe and normal operation state.
3. To coordinate with port authorities and functional agencies in investigating maritime accidents related to their maritime facilities in accordance with law.

Article 17. Coordinated management in the protection of maritime facilities

1. While performing their duties, specialized state management agencies at seaports shall abide by law and refrain from causing troubles affecting the normal operation of maritime facilities. Port authorities shall assume the prime responsibility for, and coordinate operations of specialized state management agencies at seaports in, protecting maritime facilities.
2. Specialized state management agencies at seaports shall closely coordinate with one another in promptly handling violations or maritime incidents or accidents at maritime facilities.
3. Any problems arising in relation to functions and tasks of other specialized state management agencies should be promptly settled after these agencies consult and reach agreement with one another. In case no agreement can be reached, they shall promptly notify such to port authorities for settlement in accordance with law. Any problems that fall beyond the settling competence of a certain specialized state management agency should be promptly reported by such agency to its superior agency for prompt settlement. When necessary, related ministries and sectors shall work with the Ministry of Finance in settling arising problems and notify their settlement decisions to concerned agencies, organizations and persons within 4 hours after receiving reports on such problems.

Article 18. Handling of violations in the protection of maritime facilities

Violators of the law on protection of maritime facilities shall be handled and, if causing damage, pay compensations in accordance with law.-

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG