

THE GOVERNMENT**THE SOCIALIST REPUBLIC OF VIETNAM**
Independence - Freedom - Happiness**No. 43/2015/ND-CP***Hanoi, May 6, 2015***DECREE****Providing the establishment and management of water source protection corridors^(*)**

Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the June 21, 2012 Law on Water Resources;
At the proposal of the Minister of Natural Resources and Environment,
The Government promulgates the Decree providing the establishment and management of water source protection corridors.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides the establishment and management of water source protection corridors with regard to the water sources defined in Article 31 of Law No. 17/2012/QH13 on Water Resources.

Article 2. Subjects of application

This Decree applies to state agencies, organizations, individuals and households that are involved in the establishment and management of water source protection corridors and activities within these corridors in the territory of the Socialist Republic of Vietnam.

Article 3. Interpretation of terms

1. Water sources related to religious or belief activities means the water sources regarded by local communities as sacred or as places for organization of belief-related activities.

2. Water sources related to culture conservation activities means sections of rivers, streams, canals, ditches or lakes which are closely associated with scenic places or traditional historical-cultural relics of localities.

3. Water sources of high bio-diversity value means those closely associated with the regular or seasonal habitats of animal and plant species on the list of endangered and rare species prioritized for protection.

4. Rivers, streams, canals or ditches for which water source protection corridors shall be established defined at Point c. Clause 1, Article 31 of the Law on Water Resources, include:

a/ Sections of rivers, streams, canals and ditches which are sources of water supply for water plants supplying daily-life or production water for urban centers, concentrated residential quarters, industrial complexes and parks, or craft villages;

^(*) *Công Báo Nos 553-554 (19/5/2015)*

b/ Inter-district or inter-provincial rivers, streams, canals and ditches which serve as water drainage axes for urban centers, concentrated residential quarters, and industrial complexes and parks;

c/ Rivers, streams, canals and ditches which function to supply or drain water with a view to ensuring environmental sanitation, improving or recovering polluted, degraded or depleted water sources in urban centers or residential quarters;

d/ Rivers, streams, canals and ditches which are closely associated with the livelihood of riverside communities.

5. Bank edge of a river, stream, canal or ditch means the boundary between the natural talus of the river, stream, canal or ditch bank and the natural land surface in the horizontal direction. For an embanked river, stream, canal or ditch, the bank edge is the top of the embankment. The bank edges of natural or man-made lagoons, ponds or lakes other than hydroelectric or irrigation reservoirs will be determined by markers planted by agencies based on the highest water level; for coastal lagoons, their bank edges shall be determined based on the average highest tide in many years.

Article 4. Functions of water source protection corridors

1. A water source protection corridor shall be established to perform the following functions:

a/ To protect the bank stability and prevent and combat the encroachment upon land around water sources;

b/ To prevent and combat activities threatening to pollute and degrade water sources;

c/ To protect, conserve and develop the aquatic ecological system and natural animal and plant species adjacent to water sources;

d/ To create space for cultural, sports, entertainment and recreation activities, preserving and developing the historical, cultural, tourist and belief values related to water sources.

2. The water source protection corridor's functions defined in Clause 1 of this Article shall be determined for the whole or each section of the corridor according to water source protection requirements.

3. The water source protection corridor's functions shall be expressed in the list of water sources for which water source protection corridors shall be established and used as a basis for identification of the scope of water source protection corridors under this Decree.

Article 5. Principles of establishment and management of water source protection corridors

1. To satisfy the water source protection requirements and concurrently harmonize the lawful rights and interests of related organizations and individuals.

2. The boundaries of water source protection corridors shall be demonstrated on the maps of land use master plans and plans.

3. Land use master plans and plans and other specialized master plans must ensure the maintenance and development of the approved functions of water source protection corridors.

4. The establishment of water source protection corridors must ensure publicity and democracy.

Article 6. Prohibited acts within water source protection corridors

1. Acts that threaten to cause or cause the decrease of the function of water source protection corridors; cause river, stream, canal, ditch or reservoir bank slide, or seriously affect or threaten the stability and safety of rivers, streams, canals, ditches or reservoirs.

2. Encroaching upon, illegally using land within water source protection corridors; using land at variance with approved land use purposes.

3. Constructing or expanding contagious disease hospitals or clinics, cemeteries, waste dumping sites, toxic chemical factories, and production or processing facilities with hazardous wastewater.

Chapter II SPECIFIC PROVISIONS

Article 7. Bases for determination of scope of water source protection corridors

1. Functions of water source protection corridors.
2. Topographical, geological, hydrological, environmental and ecological characteristics; developments of river, stream, canal or ditch flowing beds and banks.
3. Current status of land use, economic, cultural and social activities nearby water sources.
4. Specific provisions on the minimum scope of water source protection corridors at Articles 9, 10 and 11 of this Decree.

Article 8. Scope of water source protection corridors for hydroelectric and irrigation reservoirs

1. For hydroelectric and irrigation reservoirs with a holding capacity of more than one billion cubic meters (1,000,000,000 m³) or of between ten million cubic meters (10,000,000 m³) and one billion cubic meters (1,000,000,000 m³) but located in concentrated residential quarters or areas with defense or security works, the scope of water source protection corridors must cover the area from the boundary with a level equal to the highest level corresponding to the designed flood to the boundary with a level equal to the reservoir bed ground clearance level.

2. For other hydroelectric or irrigation reservoirs, the scope of water source protection corridors must cover the area from the boundary with a level equal to the height of the dam top to the boundary with a level equal to the reservoir bed ground clearance level.

Article 9. Scope of water source protection corridors for rivers, streams, canals and ditches

1. For river, stream, canal or ditch protection corridors with the functions defined at Point a, Clause 1, Article 4 of this Decree, the scope of water source protection corridor is prescribed as follows:

a/ Not shorter than 10 m from the bank edge, for river, stream, canal or ditch sections running through urban centers or concentrated residential quarters or areas planned for construction of urban centers or concentrated residential quarters;

b/ Not shorter than 5 m from the bank edge, for river, stream, canal or ditch sections not running through urban centers or concentrated residential quarters;

c/ If the river, stream, canal or ditch sections have slid or are in danger of slide, the People's Committees of provinces or centrally run cities (below referred collectively to as provincial-level People's Committees) shall base themselves on the development of flowing beds and the slide conditions to decide on the scope of protection corridors in order to ensure safety for people's lives and property, limit the causes of bank slide, and protect the stability of the river, stream, canal or ditch banks;

d/ For river, stream, canal or ditch sections that have been embanked against slide and encroachment, provincial-level People's Committees shall consider and decide on a scope of water source protection corridor smaller than the minimum scope defined at Points a and b of this Clause.

2. For river, stream, canal or ditch protection corridors with the functions defined at Point b, Clause 1, Article 4 of this Decree, the water source protection corridors are prescribed as follows:

a/ Not shorter than 20 m from the bank edge, for river, stream, canal or ditch sections

running through urban centers or concentrated residential quarters or areas planned for construction of urban centers or concentrated residential quarters;

b/ Not shorter than 15 m from the bank edge, for river, stream, canal or ditch sections not running through urban centers or concentrated residential quarters.

3. For river, stream, canal or ditch protection corridors with the functions defined at Point c, Clause 1, Article 4 of this Decree, the scope of water resource protection corridors must not be smaller than 30 m from the bank edge or cover the entire submerged areas along the sides of the river, stream, canal or ditch,

4. For river, stream, canal or ditch protection corridors with the functions defined at Point d, Clause 1, Article 4 of this Decree, provincial-level People's Committees shall decide on specific scopes of water source protection corridors.

5. In case a water source protection corridor has two or more functions, the minimum scope of the corridor shall be determined according to the function with the largest minimum scope.

6. For the water source protection corridors defined in Clauses 1, 2, 3 and 4 of this Article with dykes, railways, roads or other infrastructure facilities built nearby the river, stream, canal or ditch sections, the maximum scope of these water source protection corridors must not transcend the boundary of the dyke protection corridors close to the river or of the safety corridor of such facilities close to the bank.

7. For canals or ditches within the irrigation systems, the protection corridors shall be established and managed under the law on the protection of irrigation works.

8. For rivers, streams, canals and ditches located within nature conservation zones or within the protection scope of historical or cultural relics, the laws on nature conservation and protection of historical and cultural relics shall be complied with.

Article 10. Scope of water source protection corridors for natural lakes and man-made lakes in urban centers, concentrated residential quarters, and other water sources

1. For natural lakes and man-made lakes in urban centers and concentrated residential quarters; big lakes and ponds with regulating functions in other areas, the scope of water source protection corridors must not be smaller than 10 m from the bank edge.

2. For natural lagoons and water sources which are related to religious or belief activities, have high value in bio-diversity, culture conservation and natural eco-system protection and development, the scope of water source protection corridors must not be smaller than 30 m from the bank edge.

3. If water sources are located within nature conservation zones or the protection scope of historical or cultural relics, the laws on nature conservation and the protection of historical and cultural relics shall be complied with.

Article 11. Making and publicization of lists of water sources for which protection corridors shall be protected

1. Making the lists of water sources for which protection corridors shall be protected:

a/ Based on Clause 1, Article 31 of the Law on Water Resources, and Articles 3 and 7 of this Decree, provincial-level Departments of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with the People's Committees of urban districts, rural districts, towns or provincial cities (below referred collectively to as district-level People's Committees) in, making the lists of water sources for which protection corridors shall be protected in their respective localities, collecting comments from provincial-level Departments of Agriculture

and Rural Development, Departments of Industry and Trade and concerned Departments and sectors thereon, and submit them to provincial-level People's Committees for approval;

b/ A list of water sources for which protection corridors shall be protected must include the following main contents:

- Names and administrative boundaries of lakes, river, stream, canal or ditch sections for which protection corridors shall be protected;

- Functions of the water source protection corridors;

- List and scope of water source protection corridors for which markers shall be planted under Clause 1, Article 12, and Clause 1, Article 13, of this Decree, and the priority order of marker planting in every five-year period; and annual plans on marker planting;

c/ A dossier submitted to the provincial-level People's Committee for consideration and approval must comprise: The report, the draft decision on approval of the list of water sources for which protection corridors shall be protected, enclosed with the list of water sources for which protection corridors shall be protected in the locality, and other relevant documents.

The report must cover the following main contents: Explanation on the selection of water sources for which protection corridors shall be protected; bases for determining the functions of every protection corridor; the process of making the list.

2. Publicizing the lists of water sources for which protection corridors shall be protected:

a/ Within fifteen (15) working days after the approval, the provincial-level Departments of Natural Resources and Environment shall organize the publicization of the lists of water sources for which protection corridors shall be protected in the mass media, notify them to the district-level People's Committees and post them at the offices of the People's Committees of communes, wards and townships (below referred collectively to as commune-level People's Committees) of localities where these water sources are located;

b/ The approval and publicization of the lists of water sources for which protection corridors shall be protected shall be completed within than two (2) years after this Decree takes effect, which will be considered and adjusted every five (5) years or adjusted when necessary.

Article 12. Planting of water source protection corridor markers for hydroelectric and irrigation reservoirs

1. Water source protection corridor markers shall be planted for hydroelectric and irrigation reservoirs with a holding capacity of one million cubic meters (1,000,000 m³) or more.

2. Organizations managing and operating the reservoirs defined in Clause 1 of this Article shall assume the prime responsibility for, and coordinate with the district-level People's Committees of localities where the reservoirs are located in, preparing schemes on planting of reservoir protection markers. Such a scheme must have the following main contents:

a/ Basic specifications of the reservoir;

b/ Current status of management and use of land around the reservoir;

c/ Identification of the specific scope of the reservoir protection corridor on the ground diagram;

d/ The coordinates and administrative geographical names of markers, the distance between markers on the topographical maps of a scale of 1:25,000 to 1:2,000;

dd/ Plan on mobilization of labor, supplies, materials, construction and ground clearance on the site;

e/ Marker planting schedule, marker handover, and implementation fund.

3. The order and procedures for appraisal and approval of a scheme on planting of water source protection corridor markers for hydroelectric and irrigation reservoirs are prescribed as follows:

a/ Within ten (10) working days after the receipt of a scheme for marker planting from the reservoir- managing or -operating organization, the provincial-level Department of Natural Resources and Environment shall consider and examine the scheme. If it fails to satisfy the requirements prescribed in Clause 2 of this Article, the provincial-level Department of Natural Resources and Environment shall notify such to the reservoir-managing or -operating organization for supplementation;

b/ Within thirty (30) working days after the receipt of a scheme which satisfies the requirements defined in Clause 2 of this Article, the provincial-level Departments of Natural Resources and Environment shall collect comments from the provincial-level Department of Industry and Trade and Department of Agriculture and Rural Development, the district-level People's Committee of locality where the reservoir is located, related agencies and units, and propose, if necessary, the provincial-level People's Committee, setting up a council for appraisal of the scheme.

The provincial-level Department of Natural Resources and Environment shall sum up the comments and send them to the reservoir-managing or -operating organization for completion. The latter shall accept and explain the non-acceptance of the comments and finalize the dossier. If the conditions are fully met, the provincial-level Department of Natural Resources and Environment shall submit the marker planting scheme to the provincial-level People's Committee for approval.

4. Based on the approved marker planting scheme, the reservoir-managing or -operating organization shall assume the prime responsibility for, and coordinate with the district-level People's Committee of the locality where the reservoir is located in, planting the markers; and hand over the markers to the commune-level People's Committee of the locality where the reservoir is located for management and protection.

5. Time limits for completion of the planting of water source protection corridor markers for hydroelectric and irrigation reservoirs are prescribed as follows:

a/ For reservoirs under construction and not yet put into operation, the markers shall be handed over before water is stored in the reservoirs;

b/ For operating reservoirs without marker handover as prescribed in Decree No.112/2008/ND-CP of October 20, 2008, on the integrated management, protection and exploitation of resources and hydroelectric and irrigation reservoir environment, the marker handover shall be completed within two years, for hydroelectric reservoirs, or five years, for irrigation reservoirs after this Decree takes effect.

Article 13. Planting of water source protection corridor markers for rivers, streams, canals, ditches, natural lakes and man-made lakes in urban centers, concentrated residential quarters and other water sources

1. Water source protection corridor markers shall be planted for river, stream, canal or ditch sections running through urban centers, concentrated residential quarters, industrial complexes and parks, craft villages or areas planned for construction of urban centers, concentrated residential quarters, industrial complexes or parks, craft villages, and for natural lakes and man-made lakes in urban centers and concentrated residential quarters.

2. Annually, based on the lists of water sources for which protection corridors shall be established, provincial-level Departments of Natural Resources and Environment shall coordinate with district-level People's Committees in submitting to provincial-level People's Committees for approval plans on planting of water source protection corridor markers in their localities, and

prepare detailed marker planting schemes and funds after provincial-level People's Committees approve the plans.

3. A scheme on planting of water source protection corridor markers must include the following main contents:

a/ Identification of the specific scope of water source protection corridor on the ground diagram;

b/ The coordinates and administrative area names, distance between markers on the topographical maps of a scale of 1:25,000 to 1:2,000;

c/ The scheme on compensation, ground clearance and resettlement (if any);

d/ The scheme for organization and mobilization of supplies, materials, equipment and labor; technical solutions for implementation in the field;

dd/ Detailed fund estimate for implementation;

e/ Marker planting schedule and marker handover.

4. District-level People's Committees shall direct commune-level People's Committees to organize the marker planting in the field under the approved schemes; and hand over the markers to commune-level People's Committees for management and protection.

5. Provincial-level Departments of Natural Resources and Environment shall urge, monitor and inspect the planting of water source protection corridor markers in localities.

Article 14. Fund for planting of water source protection corridor markers

1. The fund for planting of water source protection corridor markers for hydroelectric and irrigation reservoirs shall be provided by reservoir owners or reservoir-managing organizations.

2. The fund for planting of water source protection corridor markers for rivers, streams, canals, ditches, natural lakes and man-made lakes in urban centers or concentrated residential quarters, and other water sources shall be provided by the state budget, including local budget and central budget supports supplemented by revenues from the grant of the right to exploit water resources in accordance with law.

3. For localities with contributions to the central budget, their local budgets shall balance the fund for implementation.

4. Annually, the Ministry of Natural Resources and Environment shall review and sum up the funds for planting of water source protection corridor markers proposed by localities for support from the central budget and money amounts collected from the grant of the right to exploit water resources, and send them to the Ministry of Finance for inclusion in the annual budget estimates in accordance with the budget law.

Article 15. Requirements on activities within the water source protection corridors

1. Organizations, individuals and households living and carrying out production, business and service activities within the scope of water resource protection corridors must satisfy the following requirements:

a/ Not causing river, stream, canal, ditch or reservoir bank slide or seriously affecting or threatening the stability and safety of rivers, streams, canals, ditches or reservoirs;

b/ Not affecting the water source protection corridors' functions already approved by competent state agencies;

c/ Not causing adverse impacts on the landscape and ecological environment within the scope of water source protection corridors;

d/ Applying measures to protect the water resources as prescribed by law.

2. Written agreement of provincial-level Departments of Natural Resources and Environment on impacts on the functions of water source protection corridors shall be obtained when carrying out the following activities within the scope of water source protection corridors:

a/ Constructing warehouses, storage yards, wharves, ports, bridges, roads, underground facilities and other infrastructure facilities;

b/ Leveling, filling up and embanking rivers, streams, ditches, irrigation and hydroelectric reservoirs, natural lakes, man-made lakes, excluding the construction of urgent works for natural disaster prevention, control or remedy;

c/ Drilling, digging for geological investigation or survey, mineral exploration and exploitation, treatment of foundations of construction works, and mine drainage;

d/ Exploiting minerals and building materials.

Article 16. Responsibilities of ministries and ministerial-level agencies

1. Responsibilities of the Ministry of Natural Resources and Environment:

a/ To guide and direct localities in establishing and managing water source protection corridors under this Decree;

b/ To examine, inspect and handle violations of the law on the establishment and management of water source protection corridors.

2. Related ministries and ministerial-level agencies shall, within the scope of their respective tasks and powers, coordinate with the Ministry of Natural Resources and Environment and provincial-level People's Committees in establishing and managing the water source protection corridors.

Article 17. Responsibilities of People's Committees at different levels

1. Provincial-level People's Committees:

a/ To direct and organize the listing and approve the lists of water sources for which water source protection corridors shall be established in their localities;

b/ To direct the making, approval and implementation of plans and schemes on planting of water source protection corridor markers in their localities;

c/ To disseminate regulations on establishment and management of water source protection corridors in their localities;

d/ To examine, inspect and handle violations of the law on the establishment and management of water source protection corridors in their localities;

dd/ To allocate fund for the listing of water sources for which water source protection corridors shall be established in their localities; and fund for planting of water source protection corridor markers under Clause 2, Article 14 of this Decree in the local annual budget estimates in accordance with the budget law.

2. District-level People's Committees:

a/ To manage and protect water source protection corridor markers; to bear responsibility for the illegal encroachment, occupation or use of land in the water source protection corridors in their localities;

b/ To direct commune-level People's Committees in managing the water source protection corridors in their localities;

c/ To coordinate with provincial-level Departments of Natural Resources and Environment in making the lists of water sources for which protection corridors shall be established in their localities;

d/ To coordinate with reservoir-operating organizations or persons in preparing schemes on the planting of markers identifying the protection corridors of hydroelectric and irrigation reservoirs in their localities, and coordinate in the planting of markers in the field after the marker planting schemes are approved;

dd/ To coordinate with provincial-level Departments of Natural Resources and Environment in preparing schemes on the planting of protection corridor markers for rivers, streams, canals, ditches, natural lakes and man-made lakes in urban centers or concentrated residential quarters, and other water sources in their localities, and coordinate in planting markers in the field after the marker planting schemes are approved.

Chapter III

IMPLEMENTATION PROVISIONS

Article 18. Transitional provisions

1. Contagious disease hospitals and clinics, cemeteries, waste dumping sites, toxic chemical plants, and production and processing establishments discharging hazardous wastewater, which are operating in water source protection corridors, may not expand their scale and shall adopt measures to control and closely supervise the quality of wastewater and wastes before discharging them into soil and water sources.

The operating establishments which pollute water sources shall work out solutions to the situation within time limits prescribed by provincial-level People's Committees (except establishments operating in intra-provincial water source protection corridors) or by the Ministry of Natural Resources and Environment (if establishments operate in inter-provincial or trans-national water source protection corridors). If the establishments are unable to remedy the pollution, the provincial-level People's Committees and the Ministry of Natural Resources and Environment shall propose the Prime Minister to decide on suspension of their operation or on their relocation.

2. For hydroelectric and irrigation reservoirs for which the schemes on planting of protection corridor markers have been submitted before this Decree takes effect, Decree No.112/2008/ND-CP of October 20, 2008, on integrated management, protection and exploitation of resources and environment of hydroelectric and irrigation reservoirs still applies.

Article 19. Effect

1. This Decree takes effect on July 1, 2015.

2. To annul the provisions of Clause 1 of Article 3; Article 6; Clauses 3, 4 and 5 of Article 8, of Decree No.112/2008/ND-CP of October 20, 2008, on integrated management, protection and exploitation of resources and environment of hydroelectric and irrigation reservoirs.

Article 20. Implementation responsibility

1. The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with related ministries and sectors in, guiding the implementation of this Decree.

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

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG