

CIRCULAR

**GUIDELINES FOR PROTECTION AND DEVELOPMENT OF AQUATIC
RESOURCES**

Pursuant to the Government's Decree No. 15/2017/ND-CP dated February 17, 2017 defining functions, tasks, entitlements and organizational structure of the Ministry of Agriculture and Rural Development;

Pursuant to the Law on Fisheries dated November 21, 2017;

At the request of the General Director of the Directorate of Fisheries;

The Minister of Agriculture and Rural Development hereby promulgates a Circular to provide guidelines for protection and development of aquatic resources.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Circular deals with procedures and guidelines for investigation into and assessment of aquatic resources and living environment of aquatic species; procedures for setting up and appraising projects on establishment of marine protected areas (MPAs) and contents of decisions on establishment of MPAs of provinces (hereinafter referred to as "provincial MPAs"); guidelines for management of protected areas of aquatic resources; criteria and promulgation of the list of fishing occupations and gears banned from use in commercial fishing and the list of areas banned from commercial fishing for a fixed term; marking of fishing gears used at fisheries.

Article 2. Regulated entities

This Circular applies to Vietnamese and foreign organizations and individuals whose operation involves protection and development of aquatic resources, commercial fishing in land, islands, archipelagoes and territorial waters of Vietnam.

Chapter II

INVESTIGATION INTO AND ASSESSMENT OF AQUATIC RESOURCES AND LIVING ENVIRONMENT OF AQUATIC SPECIES

Article 3. Investigation into and assessment of aquatic resources and living environment of aquatic species

Investigation into and assessment of aquatic resources and living environment of aquatic species shall be carried out according to the following procedures:

1. Design an investigation.
2. Prepare for the investigation.
3. Conduct the investigation.
4. Analyze investigation results.
5. Processing investigation data.
6. Report investigation results.
7. Retain investigation results.

Article 4. Guidelines for overall investigation into and assessment of aquatic resources and living environment of aquatic species

1. An overall investigation into and assessment of aquatic resources and living environment of aquatic species shall focus on:

- a) Components, catches, density, richness, distribution and reserves of aquatic species, allowable catches of aquatic resources;
- b) Biological characteristics of aquatic species;
- c) Environment, hydrology, oceanography and other aquatic animals related to aquatic resources;
- d) Other contents defined according to requirements for management and sustainable use of aquatic resources.

2. An overall investigation into and assessment of aquatic resources and living environment of aquatic species shall be carried out as follows:

- a) Design an investigation: collect documents and data on subject and place; design an investigation plan;

- b) Prepare for the investigation: provide personnel, equipment and vehicles; design a detailed plan for implementation of the investigation plan.
- c) Conduct the investigation: check status of tools and equipment used for the investigation; collect samples of investigation subjects using an appropriate method; analyze and determine samples of components of aquatic resources, catches and biological characteristics of aquatic species; handle sample of each subject in the field using an appropriate method; collect and record information in the field;
- d) Analyze investigation results: analyze and handle samples of specimens; biocriteria, samples of bottom deposits, balneological criteria; plankton, benthos; roe, juvenile fish, shrimp larvae, juvenile shrimps;
- dd) Process investigation data: use statistical tools and software and other software to analyze and adjust data;
- e) Report investigation results: prepare thematic and consolidated reports on assessment of aquatic resources and living environment of aquatic species;
- g) Retain investigation results;
- h) Other tasks performed upon request.

Article 5. Guidelines for investigation into commercial fishing

1. An investigation into commercial fishing shall focus on:

- a) The number of fishing vessels;
- b) Information about the fishing by fishing fleets, catches and prices of caught aquatic products;
- c) Collection and analysis of biological samples, particularly collection and analysis of samples of components of species in a group of aquatic products or aquatic species in the catches; collection of samples, measurement of sizes and analysis of biological characteristics of aquatic species in the analyzed samples of components of species.

2. An investigation into and assessment of commercial fishing shall be carried out as follows:

- a) Design an investigation: investigation and sample collection must take place in areas where there is a great number of fishing vessels handling aquatic products and various fishing occupations are available. Subjects must be investigated in such a manner as to ensure that all fishing occupations and structure of fishing occupations of a fishing fleet involved in commercial fishing, and catches are aggregated and that biological data on groups of aquatic products in catches is obtained.

- b) Prepare for the investigation: provide personnel, equipment and vehicles; design an implementation plan;
- c) Conduct the investigation: enumerate fishing vessels; collect information about fishing by fishing vessels, catches, prices of caught aquatic products; collect and analyze biological samples;
- d) Analyze investigation results: analyze samples of components of species of product groups, fisheries biological samples;
- dd) Process investigation data: use statistical tools and software and other software to analyze and adjust data;
- e) Report investigation results: report current commercial fishing, fisheries biology and fisheries management solutions.
- g) Retain investigation results;
- h) Other tasks performed upon request.

Article 6. Guidelines for thematic investigation into and assessment of aquatic resources and living environment of aquatic species

1. A thematic investigation into and assessment of aquatic resources and living environment of aquatic species shall focus on at least one of the contents specified in Clause 1 Article 4 of this Circular.
2. A thematic investigation into and assessment of aquatic resources and living environment of aquatic species shall be carried out as prescribed in Clause 2 Article 4 of this Circular.

Article 7. Results of investigation into and assessment of aquatic resources and living environment of aquatic species

Results of investigation into and assessment of aquatic resources and living environment of aquatic species include:

1. Data on investigation into aquatic resources and commercial fishing.
2. Thematic reports on each content and subject; consolidate reports on results of investigation into and assessment of aquatic resources and living environment of aquatic species, containing at least: current conditions of aquatic resources, commercial fishing, biological characteristics of aquatic species, environment, hydrology, oceanography, roe, juvenile fish, shrimp larvae, juvenile shrimps and other contents (if any).
3. Map and diagram related to aquatic resources and commercial fishing.

4. Collected, handled and analyzed samples.
5. Other documents (if any).

Chapter III

ESTABLISHMENT OF PROVINCIAL MPAS; MANAGEMENT OF PROTECTED AREAS OF AQUATIC RESOURCES

Article 8. Procedures for setting up projects on establishment of provincial MPAs

The fishery authority of a province shall set up a project on establishment of provincial MPA in accordance with the following procedures:

1. Organize biodiversity investigation and assessment and set up a project on establishment of provincial MPA.
2. Seek opinions of relevant Departments, People's Committees of districts and People's Committees of communes; opinions of residential community in and around the area where the MPA is expected to be established by a show of hands or enquiry about the project.
3. Request the People's Committee of the province to appraise the project on establishment of provincial MPA.

Article 9. Procedures for appraising projects on establishment of provincial MPAs

1. An application for appraisal of the project on establishment of provincial MPA includes:
 - a) An application form;
 - b) The project on establishment of provincial MPA, prepared using the Form No. 01 in the Appendix I hereof;
 - c) Written summation and explanation for opinions of relevant Departments, People's Committees of districts and People's Committees of communes, and residential community in and around the area where the MPA is expected to be established;
 - d) Other relevant documents (if any).
2. Procedures for appraising the project:
 - a) The fishery authority shall submit an application prescribed in Clause 1 of this Article to the People's Committee of the province;

b) The People's Committee of the province shall establish an inter-agency appraisal council and take charge of carrying out an appraisal according to Clause 3 of this Article. The inter-agency appraisal council shall be composed of at least 07 members. The President is the representative of the People's Committee of the province and members are leaders from relevant Departments and People's Committees of districts;

c) After obtaining the written appraisal of the project on establishment of provincial MPA given by the inter-agency appraisal council, the People's Committee of the province shall submit a project dossier to the Ministry of Agriculture and Rural Development, which will give a written response before making a decision.

The project dossier submitted to the Ministry of Agriculture and Rural Development includes: provincial MPA establishment project; written summation and explanation for opinions of relevant Departments, People's Committees of districts and People's Committees of communes, and residential community in and around the area where the MPA is expected to be established; written appraisal of the provincial MPA establishment project given by the inter-agency appraisal council;

d) The Ministry of Agriculture and Rural Development shall send a written consent to the People's Committee of the province. In case of rejection of the project dossier, a written response specifying reasons thereof shall be given;

dd) After obtaining the written consent, the People's Committee of the province shall decide to establish the MPA.

3. An appraisal of the provincial MPA establishment project shall cover at least:

a) Necessity of establishing the MPA;

b) Bases for setting up the project;

c) Targets and subjects under the protection;

d) Satisfaction of criteria for establishing a MPA prescribed in Article 15 of the Law on Fisheries;

dd) Geographic location, boundary and area of MPA; boundary and area of dedicated zones and ecotone of MPA;

e) Plans for biodiversity conservation, ecosystem restoration; protection and conservation of natural landscapes, cultural and historical values;

g) Career change plan tailored for households and individuals involved in catching of aquatic products and aquaculture in the MPA;

h) Solutions for execution and execution of management programs.

Article 10. Decision on establishment of provincial MPAs

1. Presidents of People's Committees of provinces shall decide to establish provincial MPAs.
2. The decision on establishment of provincial MPAs shall be made using the Form No. 02 in the Appendix I hereof.

Article 11. Management of protected areas of aquatic resources

1. According to local conditions, protected areas of aquatic resources shall be assigned to fishery authorities of provinces or local authorities of districts and communes or community.
2. Protected areas of aquatic resources shall be managed as follows:
 - a) Fishery authorities of provinces or local authorities of districts and communes assigned to manage protected areas of aquatic resources shall make and promulgate management regulations and plans relevant to current condition of each area;
 - b) The community that voluntarily applies for management of protected areas of aquatic resources shall manage them in accordance with regulations on co-management of aquatic resources.
3. The following activities are allowed to be carried out in a protected area of aquatic resources:
 - a) Investigation and research into aquatic species and living environment thereof;
 - b) Catching of aquatic resources, aquaculture and tourism associated with fishing activities prescribed by law;
 - c) Inspection and supervision of implementation of laws;
 - d) Other activities prescribed by law.
4. People's Committees of provinces shall:
 - a) assign organizations specified in Clause 1 of this Article to manage protected areas of aquatic resources;
 - b) define areas banned from commercial fishing for a fixed term, fishing occupations and gears banned from use in commercial fishing in protected areas of aquatic resources;

c) assign competent units to inspect and supervise implementation of laws in protected areas of aquatic resources; inspect and supervise organizations assigned to manage protected areas of aquatic resources.

5. Regulations on reporting management of protected areas of aquatic resources:

a) By November 10, organizations assigned to manage protected areas of aquatic resources shall submit annual or ad hoc reports to fishery authorities of provinces.

b) By November 20, People's Committees of provinces shall submit annual or ad hoc reports at the request of the Ministry of Agriculture and Rural Development (through the Directorate of Fisheries).

Chapter IV

MARKING OF FISHING GEARS; LIST OF FISHERIES AND FISHING GEARS BANNED FROM USE IN COMMERCIAL FISHING; LIST OF AREAS BANNED FROM COMMERCIAL FISHING FOR A FIXED TERM

Article 12. Marking of fishing gears used at fisheries

1. Regarding longlines and gillnets with nets stretching at sea with a length of over 200m, and trawls, it is required to mark sea fishing gears according to Regulations for Preventing Collisions at Sea.
2. Regarding the commercial fishing using "chà" (a kind of fishing net) at sea, it is required to display signs indicating areas where fishing activities are being carried out.

Article 13. Fishing occupations and gears banned from use in commercial fishing

1. Criteria for determining fishing occupations and gears banned from use in commercial fishing

Fishing occupations and gears banned from use in commercial fishing shall be determined by one of the following criteria:

- a) Fishing occupations and gears harm or destroy aquatic resources, living environment of aquatic species and aquatic ecosystem whose effects have been assessed;
 - b) Fishing occupations and gears are on the list of banned fishing occupations and gears prescribed by the regional fisheries management organization to which Vietnam is a party or a cooperating non-party.
2. The list of fishing occupations and gears banned from use in commercial fishing is provided in the Appendix II hereof.

Article 14. Areas banned from commercial fishing for a fixed term

1. Criteria for determining areas banned from commercial fishing for a fixed term

Areas banned from commercial fishing for a fixed term shall be determined by one of the following criteria:

- a) Reproductive areas and areas where the density of roe of aquatic species is higher than that in neighboring areas;
- b) Areas where aquatic species that have not reached sexual maturity live and areas where the density of juvenile fish, juvenile shrimps and larvae of aquatic species is higher than that in neighboring areas;
- c) Areas to which aquatic species migrate for reproductive purposes;
- d) Areas banned from commercial fishing prescribed by the regional fisheries management organization to which Vietnam is a party or a cooperating non-party.

2. The list of areas banned from commercial fishing for a fixed term is provided in the Appendix III hereof.

Chapter V

IMPLEMENTATION

Article 15. Responsibilities of the Directorate of Fisheries

1. Take charge of providing counseling and proposing the promulgation of the program for overall investigation into and assessment of aquatic resources and living environment of aquatic species and organizing the execution thereof; organize the management and submit periodic reports on results of overall investigation into and assessment of aquatic resources and living environment of aquatic species to the Ministry of Agriculture and Rural Development and notify such results to People's Committees of provinces and central-affiliated cities.

2. Review, consolidate and request the Minister of Agriculture and Rural Development to promulgate the list of fishing occupations and gears banned from use in commercial fishing and list of areas banned from commercial fishing for a fixed term to.

Article 16. Responsibilities of fishery authorities of provinces and relevant organizations and individuals

1. Fishery authorities of provinces shall:

a) establish a system of collaborators in charge of conducting investigation into commercial fishing; consolidate, manage and report results of investigation into and assessment of commercial fishing, aquatic resources and living environment of aquatic species within provinces to People's Committees of provinces and Ministry of Agriculture and Rural Development;

b) set up projects on establishment of provincial MPAs as prescribed in Article 8 of this Circular;

c) Review, consolidate and submit additional regulations on fishing occupations, fishing gears and areas banned from commercial fishing that are not on the lists specified in Clause 2 Article 13 and Clause 2 Article 14 of this Circular.

2. Relevant organizations and individuals related to investigation into and assessment of aquatic resources and living environment of aquatic species shall manage, use, store and maintain confidentiality of information, share investigation data and results in accordance with regulations of law on archives and other relevant regulations of law.

Chapter VI

IMPLEMENTATION CLAUSE

Article 17. Effect

1. This Circular comes into force from January 01, 2019.

2. This Circular:

a) repeals the Directive No. 08/2005/CT-BTS dated August 25, 2008 of the Minister of Fisheries;

b) repeals the Directive No. 02/2007/CT-BTSS dated June 15, 2007 of the Minister of Fisheries;

c) repeals the Decision No. 105/2007/QD-BNN dated December 27, 2007 of the Minister of Agriculture and Rural Development;

d) repeals the Decision No. 82/2008/QD-BNN dated July 17, 2008 and Circular No. 01/2011/TT-BNNPTNT dated January 05, 2011 of the Minister of Agriculture and Rural Development;

dd) replaces the Circular No. 02/2006/TT-BTS dated March 20, 2006 of the Minister of Fisheries;

e) replaces the Circular No. 62/2008/TT-BNNPTNT dated May 20, 2008 of the Minister of Fisheries;

g) repeals the Circular No. 53/2009/TT-BNN dated August 21, 2009 of the Minister of Agriculture and Rural Development;

h) replaces the Circular No. 89/2011/TT-BNNPTNT dated December 29, 2011 of the Minister of Agriculture and Rural Development;

i) replaces the Circular No. 29/2013/TT-BNNPTNT dated June 04, 2013 of the Minister of Agriculture and Rural Development;

k) replaces the Circular No. 44/2013/TT-BNNPTNT dated October 23, 2013 of the Minister of Agriculture and Rural Development.

Article 18. Responsibility for implementation

Difficulties that arise during the implementation of this Circular should be promptly reported to the Ministry of Agriculture and Rural Development for consideration./.

**PP. THE MINISTER
THE DEPUTY MINISTER**

Phung Duc Tien

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