

**DECREE No. 86/2001/ND-CP OF NOVEMBER 16,
2001 ON THE CONDITIONS FOR CONDUCTING
AQUATIC RESOURCE BUSINESS LINES AND
TRADES**

THE GOVERNMENT

*Pursuant to the Law on Organization of the
Government of September 30, 1992;*

*Pursuant to the Law on State Enterprises of April 20,
1995;*

*Pursuant to the Law on Cooperatives of March 20,
1996;*

Pursuant to the Law on Enterprises of June 12, 1999;

Pursuant to the Ordinance on Protection and Development of Aquatic Resources of April 25, 1989;

At the proposal of the Minister of Aquatic Resources,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of application

1. This Decree prescribes the conditions for conducting a number of aquatic resource business lines and trades, including:

- a/ Exploitation of aquatic resources (in Vietnam's sea areas);
- b/ Production of aquatic breeds;
- c/ Aquaculture;
- d/ Processing of aquatic products (for use as food);
- e/ Production of aquatic animal feeds;
- f/ Production of veterinary drugs for aquatic animals (drugs, chemicals and biological products in service of aquaculture).

Article 2.- Objects of application

1. Vietnamese and foreign organizations and individuals that are engaged in the business lines and trades prescribed in Article 1 of this Decree shall have to comply with the provisions of this Decree and other relevant provisions of the Vietnamese law.

In cases where an international treaty which the Socialist Republic of Vietnam has signed or acceded to contains provisions different from those of this Decree, such international treaty's provisions shall apply.

2. Family households and individuals that are engaged in small-scale aquaculture and have their business establishments not located in the planned areas; and those engaged in the small-scale aquatic product processing by manual methods (as defined by the Ministry of Aquatic Resources) shall not be subject to this Decree.

Chapter II

CONDITIONS FOR EXPLOITATION OF AQUATIC RESOURCES

Article 3.- Conditions for exploitation of aquatic resources

Organizations and individuals that exploit aquatic resources must have aquatic resources exploitation permits, except for aquatic resources exploitation occupations prescribed in Appendix 1 to this Decree.

Article 4.- Aquatic resources exploitation permit (hereinafter referred to as permit for short)

1. An organization or individual may apply for permits for many fishing ships, provided that each permit inscribes only one ship and is valid only for such ship.

2. The duration of a permit shall not exceed 36 months.

3. The Ministry of Aquatic Resources shall prescribe the permit form (not printed herein) for uniform use thereof.

Article 5.- Conditions for granting permits

1. Having the certificate of fishing ship registration.
2. Having the book of certification of operating capacity of fishing ship.
3. Having fishing tackles, which conform to the regulations of the Ministry of Aquatic Resources on resource protection and development.
4. Having crew registry scroll and crew members' book for crew members working on board as prescribed by the Ministry of Aquatic Resources.
5. Shipmaster and chief engineer, for certain types of ships prescribed by the Ministry of Aquatic Resources, must have shipmaster's and chief engineer's diplomas.

Article 6.- Permit-granting procedures

1. A dossier of application for a permit comprises:
 - a/ A permit application (made according to the form set by the Ministry of Aquatic Resources);
 - b/ Papers prescribed at Points 1, 2, 4 and 5, Article 5 of this Decree (true copies thereof).
2. Permit-granting agency(ies) shall have to:
 - a/ Receive and verify dossiers;
 - b/ Within 15 days after receiving complete and valid dossiers, grant permits, or reply in writing, clearly justifying reasons for refusal to grant permits.

3. Organizations and individuals that apply for permits shall have to pay fee prescribed by law.

4. For enterprises established and operating under the Law on Foreign Investment in Vietnam, the procedures for applying for permits shall comply with the Government's Decree No.49/1998/ND-CP of July 13, 1998.

Article 7.- Permit-granting agencies

1. The Department for Aquatic Resources Protection under the Ministry of Aquatic Resources shall grant permits to the following organizations and individuals:

- a/ Units attached to the Ministry of Aquatic Resources;
- b/ Units attached to other ministries and central branches;
- c/ Armed force units engaged in economic activities.

2. The Sub-Departments for Aquatic Resources Protection in the provinces and centrally-run cities shall grant permits to organizations and individuals other than those mentioned in Clause 1 of this Article.

Article 8.- Other regulations on permits

1. Permits shall be withdrawn in the following cases:

- a/ When permit holders' means are liquidated or lost, fail to satisfy the safety requirements, thus being suspended from operation, or change hands;
- b/ Permits are erased, crossed out or modified;
- c/ Persons on board violate regulations on aquatic resources protection and are sanctioned for administrative violations for three successive times or more within the permit duration.

2. Permits shall not be granted in the following cases:

- a/ Applications for the exploitation of banned aquatic species, exploitation of aquatic resources in restricted areas, within the ban duration or by banned methods;
- b/ Reserve resources of aquatic species under exploitation have been exploited to the utmost or shirk.

Chapter III

**CONDITIONAL AQUATIC RESOURCE
BUSINESS LINES AND TRADES**

Article 9.- Conditions for production of aquatic breeds

Organizations and individuals that produce aquatic breeds must fully meet the following conditions:

1. Places for building establishments for aquatic breed production must be in line with the planning of the aquatic resources sector or localities.

2. Ponds, pools, facilities, equipment, water supply and drainage systems and waste water treatment systems of their establishments must be up to the veterinary sanitation and environmental protection standards prescribed by law.

3. Each establishment must have at least one technical cadre or worker who is possessed of the certificate of being trained in breeding technique granted by the competent aquatic resources body.

4. The delivered breeds must be up to the already announced quality standards; the establishments must inspect by themselves and bear responsibility for the quality of the breeds. The quarantine must be conducted right at the production establishments and the goods labeling regulation must be observed according to the provisions of law.

Article 10.- Conditions for commercial aquatic product rearing

Organizations and individuals engaged in the commercial aquatic product rearing must fully meet the following conditions:

1. Places for building aquaculture establishments must be in line with the planning of the aquatic resources sector or localities.

2. Ponds, pools, facilities, equipment, water supply and drainage systems and waste water treatment systems must be up to the veterinary sanitation and environmental protection standards prescribed by law.

3. They use feeds and veterinary drugs for aquatic animals according to the regulations of the Ministry of Aquatic Resources.

4. The aquaculture in semi-intensive, intensive or industrial form must be conducted in compliance with the Ministry of Aquatic Resources' regulations on inspection and recognition of aquatic product trading establishments which attain the food hygiene and safety standards.

Article 11.- Conditions for aquatic product processing

Organizations and individuals engaged in aquatic product processing must fully meet the following conditions:

1. Places for building processing establishments must be in line with the planning of the aquatic resources sector or localities.

2. Workshops, storehouses, processing facilities, equipment and tools, sanitation equipment, systems for treating waste water, solid waste and exhaust gases, equipment and devices for product quality control must be up to the food hygiene and safety and environmental protection standards prescribed by law.

3. Each establishment for aquatic product processing by industrial methods must have at least one technical cadre or worker who has the university degree in one of the following specialties: food technology, aquatic product processing, biology or bio-chemistry.

4. They must apply the quality control system and observe the regulations of the Ministry of Aquatic Resources on inspection and recognition of aquatic product trading establishments which attain the food hygiene and safety standards.

5. The delivered products must be up to the already announced quality standards; the concerned establishments must inspect by themselves and bear responsibility for the quality of the products; the goods labeling regulation must be observed according to the provisions of law.

6. Only additives and chemicals on the list of chemicals permitted for use in the preservation and processing of aquatic products shall be used.

Article 12.- Conditions for production of feeds for aquatic animals

Organizations and individuals engaged in production of feeds for aquatic animals must fully meet the following conditions:

1. Workshops, store houses, facilities, equipment and waste treatment system must be up to the environmental protection and veterinary sanitation standards.

2. Each establishment must have at least one technical worker qualified for production technology operation and product quality control (for industrially manufacturing establishments, technical workers must have the university or higher degree).

3. The delivered products must be up to the already announced quality standards; the establishments must

inspect by themselves and bear responsibility for the quality of the products; the goods labeling regulations must be observed according to the provisions of law.

Article 13.- Conditions for production of veterinary drugs for aquatic animals

Organizations and individuals engaged in the production of veterinary drugs for aquatic animals must fully meet the following conditions:

1. Workshops, store houses, facilities, equipment and waste treating systems must be up to the environmental protection and veterinary sanitation standards.

2. Each establishment must have at least one full-time managerial or technical cadre who has the university or higher degree in one of the following specialties: veterinary medicine, biology, bio-chemistry, pharmacy or aquaculture.

3. The delivered products must be up to the already announced quality standards; the establishments must inspect by themselves and bear responsibility for the quality of the products; the goods labeling regulations must be observed according to the provisions of law.

Chapter IV

INSPECTION, EXAMINATION, COMPLAINTS, DENUNCIATIONS, COMMENDATION AND HANDLING OF VIOLATIONS

Article 14.- Inspection and examination of aquatic resource business lines and trades

1. The Ministry of Aquatic Resources shall have to organize the inspection and examination of business activities of those engaged in aquatic resources lines and trades, and handle violations according to its competence.

2. The inspection and examination shall cover the observance of law provisions on conditions for aquatic resources business lines and trades and the fulfillment of commitments with the competent State management agencies when the business registration is made.

3. The inspection and/or examination of conditions for aquatic resources business lines and trades must comply with the provisions of law.

Article 15.- Complaints and denunciations

Organizations and individuals may lodge complaints and/or denunciations against State agencies and/or

individuals that commit acts of infringing upon enterprises' rights according to the provisions of the legislation on complaints and denunciations.

Article 16.- Commendation and handling of violations

1. Organizations and individuals that record merits in the implementation of this Decree shall be commended and/or rewarded according to the provisions of law. All acts of violating the provisions of this Decree shall, depending on their nature and seriousness, be administratively sanctioned or examined for penal liability. If damage is caused, compensation therefor must be made according to the provisions of law.

2. Persons who abuse their positions and/or powers to act in contravention of the provisions of this Decree and other relevant law provisions shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability. If damage is caused, compensation therefor must be made according to the provisions of law.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 17.- Implementation effect

1. This Decree takes effect 15 days after its signing.

2. Organizations and individuals engaged in aquatic resources business lines and trades before the effective date of this Decree shall be allowed to continue their operation, provided that the business conditions prescribed in this Decree must be fully met before January 1, 2003.

Article 18.- Responsibilities for guidance and implementation

1. The Ministry of Aquatic Resources shall have to guide the implementation of this Decree.

2. The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

On behalf of the Government
Prime Minister
PHAN VAN KHAI