

Pursuant to April 4, 2001 Ordinance No. 32/2001/PL-UBTVQH on Exploitation and Protection of Irrigation Works;

Pursuant to Government's Decree No. 86/2003/ND-CP of July 18, 2003 defining the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development;

Pursuant to the Government's Decree No. 143/2003/ND-CP of November 28, 2003 detailing the implementation of a number of articles of the Ordinance on Exploitation and Protection of Irrigation Works;

At the proposal of the director of the Irrigation Department,

DECIDES:

Article 1.- To promulgate together with this Decision the Regulation on competence and procedures to grant permits for discharge of waste water into the system of irrigation works.

Article 2.- This Decision takes effect 15 days after its publication in the Official Gazette.

Article 3.- The director of the Office, the director of the Irrigation Department, the heads of the units of the Ministry as well as concerned organizations and individuals shall have to implement this Decision.

**THE MINISTRY OF AGRICULTURE AND RURAL
DEPARTMENT**

**DECISION No. 56/2004/QD-BNN OF
NOVEMBER 1, 2004 PRESCRIBING THE
COMPETENCE AND PROCEDURES TO
GRANT PERMITS FOR DISCHARGE OF
WASTE WATER INTO THE SYSTEM OF
IRRIGATION WORKS**

**THE MINISTER OF AGRICULTURE AND
RURAL DEVELOPMENT**

***For the Minister of Agriculture and
Rural Development
Vice Minister
PHAM HONG GIANG***

REGULATION ON COMPETENCE AND PROCEDURES TO GRANT PERMITS FOR DISCHARGE OF WASTE WATER INTO THE SYSTEM OF IRRIGATION WORKS

(Promulgated together with the Agriculture and Rural Development Minister's Decision No. 56/2004/QĐ-BNN of November 1, 2004)

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope

This Regulation prescribes the competence and procedures to grant, extend, adjust the contents of, suspend and withdraw, permits for discharge of waste water into the system of irrigation works.

Article 2.- Subjects that must apply for permits for discharge of waste water into the system of irrigation works

Organizations and individuals, that use water for production, business or scientific research activities, hospitals, urban centers, concentrated population quarters and other activities, if discharging waste water into the system of irrigation works, must apply for permits of competent State management agencies defined in Article 8 of this Regulation.

The discharge of waste water within the scope of family daily-life activities shall not require permits according to this Regulation.

Article 3.- Conditions for granting permits for discharge of waste water into the system of irrigation works

The granting of permits for discharge of waste

water into the system of irrigation works must be based on:

1. The Ordinance on Exploitation and Protection of Irrigation Works and other relevant law provisions;
2. The planning on the system of irrigation works, approved by the competent authority;
3. Quality standards of waste water;
4. The irrigation work system's capability to receive waste water;
5. Requests of organizations and/or individuals managing, exploiting and protecting irrigation works.

Article 4.- Term and extension of permits

1. The term of a permit for discharge of waste water into the system of irrigation works shall be five (5) years.

2. In cases where the permit term expires, the agencies competent to grant permits may extend them, provided that each extension must not exceed three (3) years.

3. The permit term may be changed in the following cases:

a/ The irrigation work system is incapable of receiving waste water;

b/ Waste water discharge demand is growing while remedial measures have not yet been worked out;

c/ There appear other special circumstances which require the limitation of waste water discharge into the system of irrigation works.

4. The change of permit term shall be effected

in writing by the State agencies competent to grant permits, clearly stating the reasons therefor, and must be notified to permitted organizations and individuals thirty (30) days in advance.

5. Organizations and individuals that have permits with changed term shall get the paid waste water discharge charges reimbursed for the shortened duration.

Article 5.- Adjustment of contents of permits

In the valid duration of permits, organizations or individuals that wish to change the waste water flow or concentration of waste matters must obtain permission of competent State agencies defined in Article 8 of this Regulation.

Article 6.- Suspension of validity of permits

1. The suspension of validity of permits for discharge of waste water into the system of irrigation works shall be applied in the following cases:

a/ When competent State agencies deem it necessary to suspend the validity of permits for defense or security reasons or for national or public interests;

b/ Organizations or individuals have failed to pay waste water discharge charges for one year;

c/ Organizations or individuals violate the contents prescribed in permits, having, however, not yet caused serious consequences.

2. The suspension of validity of permits for discharge of waste water into the system of irrigation works must be effected in writing, clearly stating the reasons therefor.

3. The permit validity suspension duration shall

be decided by the permit-granting agencies. In the duration when their permits' validity is suspended, the permitted organizations and individuals shall not have the rights related to such permits.

4. In cases where the conditions for permit validity suspension no longer exist, the agencies competent to grant permits shall have to issue decisions to restore the validity of such permits (for case of suspension under the provisions of Point a, Clause 1 of this Article). Organizations and individuals may request in writing the restoration of validity of permits (for case of suspension under the provisions of Points b and c, Clause 1 of this Article).

Article 7.- Withdrawal of permits

1. The withdrawal of permits for discharge of waste water into the system of irrigation works shall apply in the following cases:

a/ When competent State agencies deem it necessary to withdraw permits for defense, security reasons or for national or public interests;

b/ Waste water discharge charges have not been paid within one year after the issuance of decisions to suspend the validity of permits by competent State agencies according to the provisions of Point b, Clause 1, Article 6 of this Regulation;

c/ Organizations and individuals that discharge waste water have violated the contents prescribed in their permits and been twice suspended from using permits;

d/ Organizations granted with permits are dissolved or declared bankrupt by courts; individuals granted the permits die, are declared dead by courts, lose their civil act capacity or are

declared missing;

e/ Permits have been granted ultra vires;

f/ Permits have not been used for one (1) year without plausible reasons.

g/ Organizations and individuals transfer their permits without permission.

2. The withdrawal of permits for discharge of waste water into the system of irrigation works must be effected in writing, with the reasons therefor clearly stated.

Chapter II

COMPETENCE TO GRANT, EXTEND, ADJUST CONTENTS OF, SUSPEND, RESTORE AND WITHDRAW PERMITS FOR DISCHARGE OF WASTE WATER INTO THE SYSTEM OF IRRIGATION WORKS

Article 8.- Competence to grant, extend, adjust contents of, suspend, restore and withdraw permits

1. The Ministry of Agriculture and Rural Development shall grant, extend, adjust contents of, suspend, restore and withdraw permits for discharge of waste water into the system of inter-provincial irrigation works or irrigation works of national importance with a waste water flow of 1,000 cubic meter/day and night or more.

2. The provincial-level People's Committees shall grant, extend, adjust contents of, suspend, restore and withdraw permits for discharge of waste water into the system of irrigation works managed by their respective provinces; the system of inter-provincial irrigation works or the system of irrigation works of national importance with a discharge flow of under 1,000 cubic meter/day and night, provided

that written approvals of the Ministry of Agriculture and Rural Development are obtained.

Article 9.- Agencies receiving and evaluating dossiers

1. The Irrigation Department shall assist the Ministry of Agriculture and Rural Development in receiving and evaluating dossiers of application for permits for discharge of waste water into the system of irrigation works before submitting them to the Minister of Agriculture and Rural Development for consideration and decision on granting permits for discharge of waste water into the system of irrigation works according to the competence defined in Clause 1, Article 8 of this Regulation.

2. The provincial/municipal Agriculture and Rural Development Services shall assist the provincial/municipal People's Committees in receiving and evaluating dossiers of application for permits for discharge of waste water into the system of irrigation works before submitting them to the presidents of the provincial/municipal People's Committees for consideration and decision on granting permits for discharge of waste water into the system of irrigation works according to the competence defined in Clause 2, Article 8 of this Regulation.

Chapter III

PROCEDURES FOR GRANTING, EXTENDING OR ADJUSTING CONTENTS OF PERMITS FOR DISCHARGE OF WASTE WATER INTO THE SYSTEM OF IRRIGATION WORKS

Article 10.- Dossiers of application for permits

A dossier of application for permit for discharge

of waste water into the system of irrigation works comprises:

1. An application for permit for discharge of waste water into the system of irrigation works, made according to a set form (not printed herein);

2. Notarized copy of business license of enterprise or business registration certificate of individual business household;

3. A 1/5,000-scale map of the area for waste water treatment, the position where waste water is discharged into the system of irrigation works;

4. Designing dossier and process for operating the system of waste water treatment, already approved by the competent State agency;

5. Environmental impact assessment report (for cases where the environmental impact assessment is required according to law provisions); report on quality analysis of waste water to be discharged into the system of irrigation works. For cases where waste water is being discharged into the system of irrigation works, a report on analysis of waste water quality of a laboratory or a center for water quality expertise of the ministerial or higher level is required;

6. Notarized copies of papers on the right to use the land area where the waste water treatment system is to be located;

7. The written request enclosed with the report on analysis of quality of water of the irrigation work system at the position of receiving waste water at the time of permit application by organizations and individuals managing the exploitation and protection of irrigation works.

Article 11.- Permit-granting order

1. Organizations and individuals applying for permits for discharge of waste water into the system of irrigation works shall submit their dossiers at the dossier-receiving agencies defined in Article 9 of this Regulation.

2. Within five (5) working days after the date of dossier receipt, the dossier-receiving agencies shall have to examine and check the dossiers. In cases where the dossiers are invalid, the dossier-receiving agencies shall notify the applying organizations or individuals thereof for dossier completion according to regulations.

3. Within thirty (30) working days after receiving complete and valid dossiers, the dossier-receiving agencies shall have to evaluate the dossiers, conduct site inspection when necessary; and if there are enough grounds for granting permits, submit such dossiers to the competent agencies for granting the permits. In cases where the conditions for permit granting are not fully met, the dossier-receiving agencies shall return the dossiers to the applying organizations or individuals and notify the reasons for refusal to grant permits.

Article 12.- Dossiers of application for extension or adjustment of contents of permits

A dossier of application for extension or adjustment of contents of a permit comprises:

1. An application for extension or adjustment of contents of the permit for discharge of waste water into the system of irrigation works, made according to a set form (not printed herein);

2. Copy of the already granted permit for discharge of waste water into the system of irrigation works;

3. The additional designing dossier and

procedures for operating the waste water treatment system, already approved by the competent State agency (for case of adjustment of contents of permits);

4. The report on waste water quality analysis of a laboratory or a center for water quality expertise of the ministerial or higher level (for case of application for extension of permits). The report on analysis of quality of waste water to be adjusted before being discharged into the system of irrigation works (for case of application for adjustment of contents of permits);

5. The report on implementation of provisions of the granted permit; written records of violations and sanctioning forms (if any);

6. The written request enclosed with the report on analysis of quality of water of the irrigation work system at the position of receiving waste water at the time of permit extension or adjustment application by organizations and individuals managing the exploitation and protection of irrigation works.

Article 13.- Order of application for extension or adjustment of contents of permits

1. Organizations and individuals that apply for extension or adjustment of contents of permits for discharge of waste water into the system of irrigation works shall submit their dossiers at the dossier-receiving agencies defined in Article 9 of this Regulation. In case of application for extension, the dossiers must be submitted three (3) months before the granted permits expire.

2. Within five (5) working days after receiving the dossiers, the dossier-receiving agencies shall have to examine and check them. In cases where

the dossiers are invalid, the dossier-receiving agencies shall notify the applying organizations or individuals thereof for dossier completion as prescribed.

3. Within twenty (20) working days after receiving complete and valid dossiers, the dossier-receiving agencies shall have to evaluate them and conduct site inspection when necessary, and if there are enough grounds for extending or adjusting contents of permits, submit such dossiers to the competent agencies for extending or adjusting permits. In cases where the conditions for permit extension or adjustment are not fully met, the dossier-receiving agencies shall return the dossiers to the organizations and individuals applying for extension or adjustment and notify the reasons for refusal to extend or adjust contents of permits.

Chapter IV

RESPONSIBILITIES AND POWERS OF PERMIT-GRANTING AGENCIES AND ORGANIZATIONS AND INDIVIDUALS GRANTED THE PERMITS FOR DISCHARGE OF WASTE WATER INTO THE SYSTEM OF IRRIGATION WORKS

Article 14.- Responsibilities and powers of permit-granting agencies

Permit-granting agencies shall have the following responsibilities and powers:

1. To grant, extend, change valid duration, adjust contents, suspend, restore and withdraw permits strictly according to their competence defined in Article 8 of this Regulation.

2. To inspect the observance of permits' provisions by organizations and individuals granted

the permits.

Article 15.- Responsibilities and powers of agencies receiving and evaluating dossiers

Agencies receiving and evaluating dossiers have the following responsibilities and powers:

1. To receive dossiers and guide procedures of application for permits.
2. To request organizations and individuals applying for permits to supplement their dossiers according to regulations.
3. To evaluate dossiers of application for permits, then submit them to competent State agencies for issuance of permit granting decisions.
4. To archive dossiers related to the granting of permits for discharge of waste water into the system of irrigation works.
5. To notify in writing the applying organizations and individuals, clearly stating reasons for refusal to grant, extend or adjust contents of permits.

Article 16.- Rights of organizations and individuals granted the permits

Organizations and individuals granted the permits for discharge of waste water into the system of irrigation works have the following rights:

1. To discharge waste water into irrigation works at positions, in duration, with flow and quality of waste water prescribed in the permits.
2. To have their legitimate rights and interests provided for in permits protected by the State.
3. To enjoy damage compensations by the State in cases where their permits are withdrawn or their permits' valid duration is changed for defense or

security reasons or for national or public interests according to law provisions.

4. To request damage-causing organizations and individuals to pay damages for their legitimate interests regarding the discharge of waste water into irrigation works.

5. To request the permit-granting agencies to extend or adjust contents of permits according to regulations.

6. To transfer, lease, bequeath, mortgage or provide guarantee with assets invested in the discharge of waste water into irrigation works according to law provisions.

7. To lodge complaints or initiate lawsuits against acts of infringing upon their legitimate rights and interests in the discharge of waste water into irrigation works according to law provisions.

Article 17.- Obligations of organizations and individuals granted the permits

Organizations and individuals granted the permits for discharge of waste water into the system of irrigation works have the following obligations:

1. To observe the provisions of the Ordinance on Exploitation and Protection of Irrigation Works and other relevant law provisions.
2. To observe the regulations on flow and quality of waste water discharged into irrigation works and duration for waste water discharge into irrigation works, prescribed in the already granted permits.
3. To fulfill the financial obligations according to law provisions.
4. To observe the process of operating the waste water treatment system; to devise measures to

supervise the process of discharging waste water; to pay compensations for damage they have caused according to law provisions.

5. To protect water sources and the system of irrigation works at positions where waste water is discharged; not to obstruct or cause damage to the general exploitation of irrigation works.

6. To supply adequate and truthful data and information on waste water when so requested by competent State agencies. To create conditions for organizations and individuals permitted by State management agencies to conduct activities of scientific research, survey and assessment of water sources at their permitted areas.

Chapter V

EXAMINATION, INSPECTION AND HANDLING OF VIOLATIONS

Article 18.- Examination and inspection

1. The Ministry of Agriculture and Rural Development shall have to examine and inspect the implementation of this Regulation nationwide.

2. The provincial-level People's Committees shall have to examine and inspect the observance of contents of granted permits by organizations and individuals in their localities.

Article 19.- Handling of violations

Organizations and individuals that violate the provisions on the use of permits for discharge of waste water into the system of irrigation works shall, depending on the nature and seriousness of their violations, be administratively sanctioned or examined for penal liability. If causing damage, they must pay compensations therefor according to law provisions.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 20.- Organization of implementation

Within one (1) year after this Regulation takes effect, organizations and individuals defined in Article 2 of this Regulation, that are currently discharging waste water into the system of irrigation works, shall have to complete the application for permits to discharge waste water into the system of irrigation works.

The Ministry of Agriculture and Rural Development shall consider and solve problems arising in the course of implementation and study amendments and/or supplements to this Regulation when necessary.

For the Minister of Agriculture and Rural Development

Vice Minister

PHAM HONG GIANG